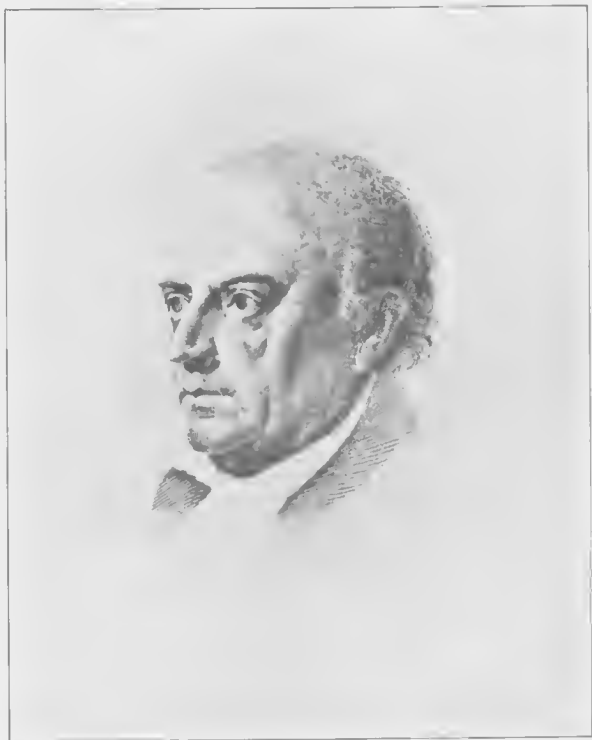


LIFE AND TIMES
OF
JUDGE THOMAS COOPER
BY
PROFESSOR CHARLES F. HIMES



THOMAS COOPER. M. D.

FROM ENGRAVING BY A. B. DURAND
FROM DRAWING BY C. INGHAM, 1829

LIFE AND TIMES
OF
JUDGE THOMAS COOPER
JURIST, SCIENTIST, EDUCATOR, AUTHOR, PUBLICIST

LECTURES BEFORE THE
DICKINSON SCHOOL OF LAW
CARLISLE, PA.

BY
PROFESSOR CHARLES F. HIMES, PH.D., LL.D.

"The government is the government of the people, and
for the people."

"Information Respecting America."—1794

"For a nation to change its form of government it is
sufficient that she wishes it."

Reply to Burke—1792

"We teach our youth in vain unless we enable them
to keep pace with the improvements of the day."

President of S. Ca. University—1826

PORTRAIT

DICKINSON SCHOOL OF LAW
CARLISLE, PA.

1918

TO THE READER :—

It may seem strange that a man characterized by Jefferson as “without a single exception” “the greatest man in America in the powers of mind and acquired information,” should have so nearly escaped into oblivion, that there is no satisfactory biography to which the curious inquirer may be referred.

The sketches of him, to be found, are not only meagre, but filled with inaccuracies, which are frequently quoted.

The explanation is simple. All the rich biographical material that had accumulated during a long life of varied activity, was destroyed by fire, together with an almost completed biography.

The interest of the writer in the man was at first largely personal and local, in the preparation of a history of Dickinson College, more particularly of its Scientific Department, in which Judge Cooper had been a highly distinguished predecessor of his own in the chair of Chemistry,—1811–1814. The very faint traditions of him that still lingered; the somewhat faded recollections of an “oldest inhabitant,” who knew him; old records, and documents and letters, together with the best biographies to be found furnished data and clues; which on further investigation, disclosed a very unique and interesting personality.

A general biographical lecture before the Dickinson School of Law led to others on special episodes of his life of more than local interest.

The present biographical sketch is the first lecture, enlarged in the publication by fuller treatment on some points than the limited time of a lecture would permit.

It is in no sense a formal biography, but rather a presentation of the personality of the man, at times with an auto-biographical turn, to which many of his writings tempt.

It embodies, however, the results of careful research and particular attention has been given to the verification of statements, and to the correction of others found in sketches of Judge Cooper, often repeated as authentic.

C. F. H.

I. BIOGRAPHICAL SKETCH

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BIOGRAPHICAL SKETCH

ENGLAND—PARIS 1792—LONDON—AMERICA 1794-1839

The name of Thomas Cooper does not challenge immediate interested attention, at first mention, although it does occur at times quite conspicuously in highly important incidents in the history of the country in the early years of 1800, and subsequently. He seems indeed almost to have escaped into oblivion.

Under such circumstances it seems allowable to preface the presentation of the man by a few words of introduction from some of his eminent and intimate contemporaries, whose opinions may be regarded as worthy of respect.

Thomas Jefferson wrote of him:—"Cooper is acknowledged by every enlightened man who knows him, to be the greatest man in America, in the powers of mind and in acquired information;" and then as if to clinch the statement adds, "and that without a single exception." * This very general statement could be supported by many others by the same authority, equally strong in particular cases.

Madison had a hardly less exalted opinion of him as a jurist. In writing to Jefferson, in 1810, † he asks, "Have you received a copy of ‡ Cooper's (the Penn'a. Judge) masterly opinion on the question, whether the

* *Earley History of the University of Virginia as contained in the Letters of Thomas Jefferson and Joseph C. Cabell.*—J. W. Randolph, Richmond, Va. 1856. p. 169.

† *Writings of James Madison*, Vol. VIII, p. 103.

‡ "The Opinion delivered by Judge Cooper in the High Court of Errors and Appeals of Pennsylvania, July 29, 1808. In the case *Dempsey (Dempsie) Ass. of Brown v. The insurance Company of Pennsylvania* on the Effect of A Sentence of a Foreign Court of Vice Admiralty, as between the Insurer and the Insured, with an Introductory Preface by Alexander James Dallas, Esq. Patrick Byrne, Philadelphia."

sentence of a Foreign Admiralty Court in a prize cause be conclusive evidence in a suit here between the Underwriter & Insured?" and pronounced it a most *thorough* investigation, and irrefragable disproof of the British doctrine on the subject, as adopted by a decision of the Supreme Court of the U. S. *

At another time in writing to Jefferson, he says, "Judge Johnson made a stroke at Cooper, which has plunged him into a venomous dispute with an antagonist the force of whose mind and pen you well know, and what is worse, Johnson stooped in his excitement to invoke religious prejudices against Cooper."†

Judge Brackenridge of the Supreme Court of Pennsylvania, in commenting upon the opinion just alluded to, remarks: "It exhibits the *utmost comprehension of mind, which is the characteristic of a great Judge*, and is the finest specimen of legal reasoning that ever fell from a bench." The Italics are his. In another connection he says of it: "I would advise every American student to read this opinion of Judge Cooper; not so much for the reasoning and ideas, as for the analysis and systematic comprehension of the subject. It is a model that deserves to be admired.‡

Another remarks of it, "It is perhaps one of the ablest and most comprehensive and perspicuous arguments that has appeared on that difficult and highly important question. Both in England and this country the question has been frequently stated, and not less frequently variously and confusedly decided."

Our own Chief Justice Gibson, who knew Cooper

* "(Foot note) Given in the case of Dempsey, assignee of Brown, v. The Insurance Co. of Pennsylvania. The case was argued twice, in 1807 and 1808, before the High Court of Errors and Appeals of Pennsylvania, and Judge Cooper's Opinion is discussed in Calhoun v. The Insurance Co. of Pennsylvania (1 Binney 293). See also Maryland Insurance Co. v. Woods and Cranach, 29. Chief Justice Marshall rendered the opinion."

† *Writings of James Madison*, Vol. IX, p. 139.

‡ *Law Miscellanies, &c.*, Hugh Henry Brackenridge, Philadelphia, 1814. p. 548; p. 525, foot note.

well, wrote of him: "In the variety and extent of his knowledge he has seldom been surpassed." *

But even those who disagreed with him, often with good reason, whilst they could not endorse him on the whole, conceded directly or indirectly, ability and acquirements of an unusual order. Thus John Adams, to whom he was such an irritant by his attacks in the newspapers of the day, that he availed himself of the Sedition Law, to have him fined and put in prison for six months—this same Adams, in later years, characterized him as, "A learned, ingenious, scientific and talented mad-cap."

Lord Jeffry, the noted English critic, in a review, in the *Edinburg Review*, of the "Memoirs of Dr. Priestley," to which Thomas Cooper, then President Judge of the Fourth Judicial District of Pennsylvania, had added rather copious "Observations," remarks of the latter: "The Observations annexed by Mr. Cooper are the work we think of a powerful presumptuous, and untractable understanding. They are written in a defying, dogmatical, unaccommodating style, with much force of reasoning for the most part, but often with great arrogance and rashness, and occasionally with a cant of philosophism and a tang of party politics, which communicates an air of vulgarity to the whole work, and irresistably excite a smile at the expense of this magnanimous despiser of all sorts of prejudice and bigotry." †

Thus all through his career he will be found extravagantly admired, enthusiastically endorsed by some, and as bitterly denounced by others.

In treating of a character so unique, so many sided in activity, and withall always original, a departure will be allowed from formal conventional biography, and the man will be presented as he exhibits himself in the leading acts and incidents of his life and more particularly in his written words, in which "the style is the man;" and

* *Encyc. Americana* (old), Vol. XIV.

† *Edinburg Review*, 1806, pp. 131 - 136; 1853, p. 630.

the reader will thus be given the privilege and the pleasure of making his own estimate and picture of the man.

He was born in London, October 22, 1759. Although Chief Justice Gibson, who was intimate with him, states that his "father was not in affluent circumstances," there are reasons for believing that he was at least in comfortable circumstances. In a long article on "The Art and Method of Brick-making" Cooper states, incidentally, that at his death, about 1789, his father owned at least 40 acres of land at Kentish Town, then two miles from the turnpike of Tottenham Court Road, London, built over already at the time of writing, in 1811. He let four acres of this at 100 pounds sterling per acre, for brick earth; which Cooper considered as too cheap. As much of the rest as was occupied was rented at five pounds per acre.

He was educated at Oxford, and matriculated in the University, at the age of nineteen, from University College, in 1779. He was on intimate terms there with many who became the leading statesmen of England. Some biographers assume, as a matter of course, that he took his degree there; but his name does not appear on the roll of its graduates. This, however, is not surprising, as all through his life he seemed restive under restraint, and averse to going on beaten paths, and may easily have been thus early recalcitrant to the purely formal requirements for an academic degree. It is said that he balked at reciting the creed, and refused to subscribe to The Thirty-nine Articles. But although the conditions at Oxford at that time were not very favorable to serious study, but rather to the "idle and unprofitable" use of time, as said by an eminent scholar, his time there was as certainly not wasted. He became the thorough classical scholar, apparent in all his literary productions of later life.

He was also deeply interested at the same time in Physical, or Natural Science as it was then called, especially in its practical phases. During the long vacation

in the colleges at Oxford, in 1780, he attended a course of anatomical lectures under Mr. Sheldon, a medical author. After that he attended veterinary dissections at a repository for dead horses at St. John's, Clerkenwell; for which privilege he paid a guinea a quarter, and was "taught," as he says, "how the meanest and most trifling articles might be employed under the direction of scientific skill." According to Gibson, "even at the Inns of Court he pursued his favorite studies, particularly anatomy and medicine."

He seems in fact to have intermeddled with all branches of human learning. He was called to the bar from the Inner Temple in 1787, and, to use the English term, he was on a circuit for three years.

He married in London. It is generally stated, when thought worthy of statement at all, that his wife was a daughter of the celebrated Dr. Priestley. This statement, of considerable interest, on careful investigation, proves to be incorrect. It probably originated in his well known intimacy with Priestley in England, and his subsequent residence with him at Northumberland, Pennsylvania, where he was present with him during his last illness, and received dictations from him, shortly before his death, in regard to his scientific publications. Cooper's library was also for many years, including the period of his connection with Dickinson College, 1811, as he express it, "under the same roof with Dr. Priestley's at Northumberland." But there is no doubt whatever that the name of the wife married in London was Alice Greenwood. She inherited a considerable estate from her father, and another upon the death of a brother. By this marriage there were at least two sons, Charles and John, and two daughters, Eliza and Elanor, all born in England, and brought with him to America. Descendants of these are prominent in Pennsylvania.

He was on intimate terms with Pitt, Fox, Burke and other leading English statesmen of that period, and also with many prominent literary characters. Even after

his removal to America he kept up a friendly correspondence with the poet Rogers, until the death of the latter.

In 1785 he became a member of the Literary and Philosophical Society of Manchester. Its membership included the leading scientific men of England. He was a vice-president from 1788 to 1791. Whilst the subjects enumerated in its constitution for consideration were mainly scientific, and the papers published by it were generally of that character, they were not exclusively so. Cooper read a very notable paper before the Society, March 7, 1787, entitled: "PROPOSITIONS respecting the FOUNDATION of CIVIL GOVERNMENT." It was first published in the Transactions of the Society in 1790, and subsequently republished. It is a bold and most forcible argument in favor of "the grand maxim, the very corner stone of legitimate government, that all power is derived from the people."

Whatever may have been his predilection for the law, or his success in the practice of it, his natural inclination soon led him into politics. He was a pronounced Radical, and became conspicuous as a political agitator. The ferment in France which was soon to culminate in the Revolution, had its effect in England. Among those notably carried away by the French ideas were the so-called Jacobin poets, Southey, Coleridge, Wordsworth and others; and a fitting counterpart to Cooper's Foundation of Civil Government was Southey's "Watt Tyler," the publication of which was withheld until 1817. The "Battle of Blenheim" had a similar inspiration.

The so-called Constitutional Clubs in France had their sympathy clubs in England. Cooper was a member of that in Manchester; and he and James Watt were fraternal delegates from it to the Jacobin Club of Paris in 1792. It is proper to state that this James Watt was not the celebrated improver of the steam engine, as is frequently stated, on the highest authority, including Judge Gibson, Judge Wharton, and even the recent edition of

the *Encyclopedia Britannica*; but he was James Watt, Jr., a son of the inventor, and a large manufacturer of steam engines.* They did not go, however, simply as delegates. They were, in fact, not deputed as such before they left England. They went ostensibly on business, but probably more because they cordially sympathized with the movement in France, and enjoyed the exciting atmosphere of the Paris of that day. Cooper, who is alluded to in this connection as the "clever but eccentric friend" of Watt, said he went as a "relaxation from great and long attention to business." Wordsworth, who was there at the same time says he was himself "*pretty hot in it*," but that he "found J. Watt there before him, and quite as warm in the same cause."

The Address of the Manchester Society was presented by Cooper and Watt, its Deputies, to the "Society of Friends of the Constitution, sitting at the Jacobins in Paris, on the 13th of April, 1792."†

Cooper and Watt addressed the Jacobins as "Brethren and Friends;" they expressed their sincere satisfaction in communicating the resolutions of their brethren of the Manchester Society appointing them deputies to the Patriotic Societies of France. They spoke of the concert among the despotic powers of Europe to overwhelm the cause of Liberty and annihilate the Rights of Man. They characterized the Jacobins as not merely friends of the constitution of France, but friends of the human race; and requested an amicable correspondence

* This erroneous statement by Gibson, Wharton and many others, and which is generally found in sketches of Cooper, which is read with surprise by those familiar with the history of the great inventor, was not simply the result of carelessness. It followed a generally accepted belief, based on very high authority. Although the father was a "steady Tory", a friend of the established government, and opposed to French ideas, he was frequently alluded to during his life as a "sad radical." This error, of confounding the father and the son, originated with a prime minister of England, and was generally accepted and repeated by men of the highest character for accuracy.

† "Bibliothèque Historique De la Revolution"—"Clubs ou Jacobins" 4, 5. "Discours de M.M. Cooper et Watt."

The volume contains addresses from and to various Jacobin Clubs from cities of France, and from different parts of the continent.

with them, and assured them that their Society would be happy to join their efforts in propagating the important principles of liberty, and thus fix on an immovable basis the empire of peace and the happiness of mankind. They urged them to continue to merit the execration of tyrants and the benedictions of the human race. The address was signed: "Thomas Cooper, James Watt, jun."

The Vice President in the absence of the President replied. He reminded them that it was just 100 years since the English afforded a sublime example to the universe in levelling the despotic pride of kings, and exhibiting the first glimpse of a declaration of the Rights of Man; at present the French had imitated their example. The French and English reunited forever by the ties of justice, humanity, and the most brotherly affection, would combat in union for the maintenance of their common liberty, and perfectioning of their respective governments. He spoke of the holy gospel of the Rights of Man, as an eternal compact of concord and peace. Said the English flag, united and entwined with the tri-colored flag of France and the thirteen stripes of the brave Americans, is suspended from the roofs of almost every Patriotic Society in France; that the politics of the Jacobins, so dreaded by the traitors and enemies of liberty, desire the glory, the prosperity and the liberty of every nation. He presented them the invitation of the Assembly to attend its meetings during their stay in Paris.

It was signed by Carra, Ducos and Saladon, Deputies of the National Assembly; Deperry, Roi, Doppet, Secretaries. The formal letter of reply to the Manchester Society, signed by the officers, was in the same strain; alluding to the "happy revolution of 1789!!" and "the sun of reason shining with meridian splendor."

The Society ordered the Address to be printed, together with the reply of the President, and the more formal reply of the Society; and directed copies to be sent to all the affiliated societies.

A translation in full was published by the Manches-

ter Society, May 8, 1792, with a prefatory note, signed by the President and Secretary of that society, explanatory to their purpose of "establishing a correspondence with the patriotic societies of France on any occasion in which the *rights, interests, and happiness* of mankind were concerned;" and that they had no *secret* correspondence, nor any wish to conceal their sentiments, designs, or conduct.

In Paris, Cooper at once associated with Brissot and the party of the Gironde, and lived with the chemists and Brissotines whilst there. He met, too, the strongminded women of the party of the Gironde; among them Theroigne de Mericourt*—the "Fury of the Gironde";—and he was deeply impressed by them, as will be seen later. He remained in Paris about four months, enjoying to the full the excitement of its life. These four months he reckoned in later years as fully equivalent to as many years of ordinary life. That he was not a mere looker-on may be inferred from the announcement in the Paris "*Patriote*" of Sept. 25, 1792, that the title of "Citizen of France" had been conferred on Thomas Cooper by the "Commission Extraordinaire." The statement, however, by Laborde, that he ventured to contest a seat in the Constituent Assembly with the Duke of Orleans lacks satisfactory confirmation; and the statement that he had been confined in the Bastille is unsupported by evidence of his presence in Paris before the destruction of the Bastille. There seems to be no question however, that he belonged to, perhaps headed a faction of the Gironde opposed to Robespierre. In an article in later years he says: "All my friends of that party were opposed to Robespierre, and fell victims at last under the machinations of that man." Cooper, in fact, quarreled openly with Robespierre in the Hall of the Jacobins, and in the presence and hearing of the President, and a crowd of members said

* "Theroigne de Mericourt, who young and beautiful, dissolute and impudent was passionately engaged in the revolutionary movement". Guizot's, *History of France*, Vol. VI, p. 87.

to him: "Citoyen vous etes coquin meprisable." Soon after that he and Mr. Watt were regularly denounced by Robespierre. In reply Cooper wrote, printed and distributed an Address to the Jacobins, exposing the conduct and designs of Robespierre, and "putting them on their guard against his tyrannical intentions." In the article alluded to he fails to give details "curious as historical facts," as he says, but remarks: "Had the Brissotines seconded the offer made and the advice given by Mr. Watt and myself respecting Robespierre, that man would have been put down, and a very different train of events would have taken place. The Brissotine party were patriots, honest, conscientious, and humane. The atrocities that did take place under Robespierre, were greatly instigated by Royalists, hired for the purpose of bringing the cause of the people into disgrace. The quarrel between Robespierre and myself was noticed; and I was defended in a paper published at the time by Brissot and Claivere. I have every reason to believe, that if the proposal of Petion, communicated by M^r Murat to Mr. Pitt, had been acceded to, the life of Louis might have been saved, as the Brissotines wished it to be; but that was not the object or wish of the British ministry, or of that minister." The scheme proposed by him and Mr. Watt involved provoking personal hazzard to Robespierre, in which Cooper was to take the first risk. All these plans were frustrated by measures the "most imminent" drawing Cooper and Watt toward the guillotine.

The intimacy of their previous relations with Robespierre may be inferred from the fact that Watt had on one occasion prevented a duel between him and Danton. They had quarreled at a club, high words ensued, and a challenge was the result. They met, and Watt, as the second of one of them, represented to them how disastrous to the cause of liberty it would be if either fell. But after Cooper had openly insulted Robespierre, and Watt seemed to have become more conservative, Robespierre, in an address to the Club, insinuated that "Cooper and his

compatriot were emissaries of Pitt." Watt at once sprang upon the tribune, ejected Robespierre by main force, and completely silenced him in an impassioned speech in French, which carried the audience with him. In using this incident as an illustration, many years afterward, Cooper remarked that "Robespierre and his abettors heard patiently the bold and indignant reply of my friend." On learning, from one of Robespierre's friends, that his life was not safe for a day, he and Cooper both got out of Paris in haste and secretly, in time to save their heads. Cooper said that he left despairing of the cause of rational liberty, perceiving in the weakness and irresolution of the party of the Gironde, that it must sink beneath the weight of the Mountain; and nearly twenty years afterward he wrote: "I went over to France, in 1792, an enthusiast, I left in disgust."

But he found time for more than political activity in Paris. He and "young Mr. Watt," as he calls him, doubtless to distinguish him from his father, the inventor, examined carefully a steam engine, near the city, that supplied a part of it with water. It had been purchased from Bolton & Watt in England; but they were given to understand, by the gentleman who explained it to them, that it was altogether a contrivance of Perriers'. On this Cooper remarks: "This robbery of other people's merits is disgracefully common in that country." He was interested too, in all the latest discoveries of science and their practical applications, especially of chemical science, then almost a French science. It is sometimes said that he took back with him the secret of the manufacture of chlorine from common salt, and applied it to bleaching at Manchester; but the fact is, that he had already made successful application of it before he went to Paris. As early as 1790 a Frenchman came to Manchester to propose a new discovery in bleaching; but the "information he thought fit to give was not of consequence enough to entitle him to attention." Cooper and two of his scientific friends, concluding that it "was meant to

be Bertholet's application of Scheele's discovery of dephlogisticated marine acid" worked out a practical process; and Cooper states that "he attended for three years continually to the bleaching of cotton goods of various kinds, amounting to an average of 800 pieces per week."

But a warm reception awaited him on his return to England. He was denounced violently and personally by Burke in a speech in the House of Commons.* The attack was called forth in a debate originating in a notice of a motion for reformation in the representation in the House of Commons. The Chancellor of the Exchequer stated, that, although he was aware that the forms of the House would not admit debate on a notice, he regarded the occasion as of such importance as to lose sight of forms for the present. He favored some plan, on account of its connection with the peace and prosperity of the Kingdom, but said the plan founded on the "Rights of Man" † would never be feasible.

Mr. Fox, in reply, contended that there was urgency for immediate reform; that no argument had been advanced to prove that the present House fairly represented the people. He admitted that Paine's pamphlet went to the overthrow of the Constitution. The French revolution, he said, had arisen from a "cruel necessity," originating in the neglect of reform; the Constitution had reached its present state by constant reform; its permanency was dependent upon its being, or being thought to be, representative of the people.

Mr. Burke said, no small exigency would now have induced him to trouble the House; but he felt it was a dictation of Providence. He asked whether it was true, as Mr. Fox had said, that there was an avowed promoter of despotism in the country? But it was a much more important question, whether there was an avowed party in the country whose object was to overthrow the Consti-

* *London Chronicle*, April 28, 1792.

† Paine's pamphlet.

tution? He asserted there was such a party; that he knew it; that he could prove it. In reply to calls of: "Name! Name!" he said, as he had been called upon to name, name he would by "God's blessing." Paine was a naturalized foreigner; he considered him "an amphibious animal, part American, part French, and part English," but there were some men who used Reform only as a "shoeing-horn." To prove it he would name others, who were their "Ambassadors Extraordinary to the Regicide Club of Paris." He asked Mr. Fox, or any other gentleman on the same side of the House, whether they knew anything of the names of Thomas Cooper and James Watt, names not to be treated with contempt, being names of some consequence? These two gentlemen, he continued, were sent over to the Jacobin Club, that "*infamous band* of regicides," to form a federation in the name of the people of England with the people of France, for the purpose of spreading their detestable doctrines.

In alluding to the excesses in Paris, and showing how the poison was beginning to work in England, he read from the correspondence of the Revolutionary Societies, in 1791, with twenty-seven Jacobin societies in France. "It was a faction in England," he said, "who wanted to force England into an alliance with France for the purpose of jointly propagating their mischievous principles." "A set of Englishmen in Paris had begged the Convention to help in remodelling the English Constitution. Another society wanted to carry on a crusade of French liberty everywhere." "Messrs. Cooper and Watt had presented an address, and carried the British flag in a procession; and on what an occasion? The most infamous that ever disgraced the name of government. A set of soldiers had been tried by a court-martial, and condemned to the galleys. These were fit men for the Republicans of Paris. They might be useful; tho' bad soldiers, they might be good murderers. They were released in contempt of the Assembly then sitting, brought to Paris, and paraded in triumph through the Hall. On this detest-

able occasion, Mr. Cooper and Mr. Watt carried the British colors. They were locked in fraternizing embrace, they received the fraternizing kiss, they went from the Hall of the Assembly to the Hall of the Jacobins, where they kissed the bloody cheek of Marat, the iron cheek of Pluto, instead of Proserpine."

"What ardent transports through their bosoms ran,
Clasped in the embrace of the God-like Man."

It was not in the nature of Cooper, perhaps, less than of most men, to remain silent under an attack of that kind. He was personally well acquainted with Burke, and had been in full sympathy with him in his liberal political views. He published a reply,* which as a piece of invective can hardly be surpassed. Six thousand copies were at once disposed of, but whilst preparations were being made to issue a cheap popular edition, the Attorney General, John Scott, afterward Lord Eldon, interfered, and stopped the publication on the ground, that whilst there was no objection to its circulation among the upper classes, the circulation of it among the masses would be dangerous to good order and government. Cooper himself, long after, wrote of this action: "Indeed the strong measures taken at the time by the Government were absolutely necessary to prevent the bias in favor of Republican government among the common people from being practically successful."

At first sight it will not appear how a reply, however bitter in invective, or in whatsoever language couched to an attack on a private individual by a member of Parliament, where he could make no defence, could possibly have so disastrous an effect. But an examination of the reply shows that it was much more than a reply. It embodied, in addition, an exhaustive discussion, from the French, or Republican point of view, of the whole question of the origin of government and the rights of rulers.

* *A Reply to Mr. Burke's Invective against Mr. Cooper and Mr. Watt in the House of Commons on the 30th of April, 1792.*
By Thomas Cooper. Manchester: 1792.

It is a pamphlet of eighty-three closely printed pages. A few brief extracts, condensed, but using as far as possible the words of the writer, will serve to show the style and spirit of it.

He began by saying that on his return from France he was not a little surprised to find the address presented by himself and Mr. Watt, on the part of the Constitutional Society of Manchester, to the Jacobins, had been made a subject of Parliamentary discussion. He had not the slightest intention to notice it publicly, conceiving that, in the present state of Mr. Burke's reputation, his ridiculous fears and intemperate invective would not furnish sufficient reason to intrude himself on the public. But he feared his gross blunders and misrepresentations might be retailed by a herd of Parliamentary orators, who ought at least to have known enough of that gentleman to be cautious about following where he led the way. He was first amused at the unexpected importance given to Mr. Watt and himself, and could not help feeling some little regret that Mr. Burke's character was at too low an ebb for them to derive much credit from his abuse, as he was dreaded by his friends, the blind tool of his enemies, the marplot of every political cause to which he conjoined himself. He then quotes Burke, as reported in the *Morning Chronicle*, as saying, that there were men in this country who did not scruple to enter into alliance with a set in France of the worst regicides and traitors that had ever been heard of,—the club of the Jacobins. Agents had been sent from this country to enter into federation with this iniquitous club, men of some consideration here; that the names he alluded to were Thomas Cooper and James Watt. Cooper goes on to remark that doubtless the report is given correctly, as Burke's, as it contains as much mistake and misrepresentation as could be crowded into the same compass. That it is "hard to require proofs of him, because he admits no such clause among his rules of controversy." "The description is a palpable untruth; Burke was probably mistaken in sup-

posing us the worst men in the kingdom, whilst he is alive to make the assertion." He then explains that there were many societies throughout France for the discussion of political questions, called "Friends of the Constitution." That one in Paris rented the old convent of the Jacobins for their meetings, and became large and influential; that these clubs communicated with each other for mutual improvement; that there were similar clubs in England.

He then suggests that Mr. Burke regarded his own assertions as "mere figures of speech. fictions of oratory, specimens of elegant invective, in which he thought himself at liberty to indulge at the expense of the more vulgar quality of truth;" "as *Burkisms* assertions without proof, invective without argument." Again he asks: "Why this anxiety among the government to stop the progress of knowledge; why this dread lest the people—the swinish multitude, as Mr. Burke calls them—should think too much about their rights?" He denies, then, that there is a conspiracy sworn to against England. England and France are not at enmity. It is not a case similar to that when Burke corresponded with Franklin and Lawrence, at war with England.

Then he attacks the constitution of Parliament as not "representative of the people, but of lords, rich landholders, ministers, borough-mongers, who buy and sell seats in Parliament as openly and notoriously as stalls for cattle at a fair. They sell their people." "Such are the herds that wallow in the sunshine of ministerial approbation, and fatten on public corruption. At some moment of intolerable provocation the people may regard this self-elected House of Representatives as a House of Ill-fame and abate the nuisance." Proceeding to attack the whole order of government as intemperately, he continues, "Among those who have attended to the subject it is impossible to deny that an hereditary monarch, an hereditary nobility, hereditary legislators and judges, are indeed excellently well calculated to make the happiness

and welfare of the many subservient to the pride and emolument of the few, but have a decided tendency to counteract the great object of all government—the good of the people.” He characterized them further as “encumbrances, absurd, useless, dangerous, and unjust,” and states his reasons in extenso, among them, that they are expensive; and he compares the expenses of the American government, of \$600,000, with England’s 25,000,000 pounds sterling.

The absurdity of hereditary government, he contends, consists in the “want of hereditary qualities; kings have not the usual incentives to good and great actions, but the reverse; courts are the hot-beds of idleness, luxury and immorality; their vicious indulgence corrupts private morals and domestic enjoyment, as seen in the toasts in vogue in the fashionable world, such as:—“May elegant vice prevail over dull virtue,” and the sentiment that, “Vice lost half its evil by losing half its grossness.” * He continues, “How ridiculous the hauteur and arrogance of these persons. The American republicans have taught us that nations may flourish and be happy who have no bishops, no nobles, no kings. These hereditary distinctions are of no avail for any useful purpose; they are not merely useless but detrimental to the morals, peace, tranquility, safety of society, they are even dangerous.” He ventured to touch on the reign of “His present Majesty,” and called the American war a foul blot on the character of the nation. He contended that “for a nation to change its form of government, it is sufficient that she wills it.” Returning, in concluding, to Mr. Burke, after quoting from him, he closes with the paragraph: “Such is Mr. Burke’s description of his own character. Boldly rejecting the mask of hypocrisy, he stands forward to the world as the public professor of political turpitude, the systematic opposer of every measure of reform, and, in love with the very sinfulness of sin, he unblushingly obtrudes himself on the disgusted eye of

* *Reflections on the Revolution in France.* Burke. 1790.

the public in all the nakedness and deformity of political vice." "Such is our accuser, the professed opponent of the rights of man; may we never deserve his panegyric."

Cooper was at the time an intimate friend of Dr. Priestley; but was not directly involved in the riots at Birmingham, July, 1781, in which Priestley's press, apparatus and papers were destroyed. These riots sometimes spoken of as religious riots, in reality originated in political causes. The anniversary of the capture of the Bastille was being celebrated by a dinner at which Priestley was not even present; but the mob wanted to emphasize its detestation of un-English notions.

Cooper visited America two years later, in 1793. He was not driven out of England on account of his religious or political opinions, nor did Priestley precede or accompany him at this time, as is often stated; but he was accompanied by a son of Dr. Priestley, among others, as well as by some of his own family. He came on a visit, as a prospector, we could almost say a promotor. He left part of his family in America, and returned to England "to fetch away the rest." He there found himself, as he says, "pressed with so many inquiries respecting the state of society, the means of living, the inducements to settle on that continent," that he determined to reply in print; and published a book in 1794, entitled, "Some Information respecting America." * In the preface he states more fully the purpose of his visit, as "expressly to determine whether America, and which part of it was eligible for a person like myself with a small fortune and a large family to settle in. I have not the means of making it more complete, it contains all that I know on the subject worth communicating. I have neither the time

* *Some Information Respecting America, collected by Thomas Cooper late of Manchester.* London: Printed for J. Johnson in St. Paul's Church Yard, MDCCXCIV. pp. 249. With map.

Ditto; Dublin; Printed by W. Porter, 1794.

Ditto; London, 1795.

nor the talents to make it entertaining. I have inserted nothing but what I should have been glad to have known when I went out." In it he strongly recommended emigration to Pennsylvania, as the most attractive state for Englishmen. Although he was in America but a short time, having left England in August, 1793, and having re-embarked at New York for England in February, 1794, the book is a most complete and authoritative statement of the industrial, economic, social and political conditions of the country at that early date, abounding in valuable data of all kinds. In it we are reminded somewhat of Lincoln, by his characterization of the government as "the government *of* the people and *for* the people." The italics are his.

He returned to America in 1794 with the rest of his family. Dr. Priestley came in the same year. Cooper and a son of Dr. Priestley, with a few other Englishmen planned a large settlement in Pennsylvania, comprising 300,000 acres "on the head waters of the Susquehanna, about fifty miles from Northumberland, for the friends of liberty in general." * It was intended as the rallying point for immigrants from England, then coming in large numbers. The project was not successful. The immigrants came with erroneous expectations, and were inclined to find fault with the projectors. Fortunately the latter had reserved for themselves but a few shares, for which they paid the same price as the others, whilst the latter had no share in the trouble or expense of furthering the plan. This project calls to mind the "epidemic delusion" of Pantisocracy prevalent at that time. It may, indeed have only been a milder modification of it. That contemplated an ideal community on the banks of the Susquehanna, whose "melodious" name was more attractive than a classic one, in the minds of Coleridge and

* *Memoirs of Dr. Joseph Priestley to the year 1795, written by himself, with a continuation to the time of his decease by his son Joseph Priestley and Observations on his writings, by Thomas Cooper, President Judge of the Fourth District of Pennsylvania, and the Rev. William Christie.* Northumberland: Printed by John Binns, 1806. 2 vols.

Southey and their associates. It was even called "the divine Susquehanna." It was the abandonment of this project by Southey that caused the estrangement with Coleridge that was never wholly outgrown.

But Cooper and his family with Dr. Priestley took up their residence at Northumberland, Pennsylvania, in 1794. There Dr. Priestley built an imposing mansion, and continued to reside until his decease in 1804. Cooper with his family was under the same roof for a long time. A laboratory was connected with the residence. It was supplied, in part at least, with apparatus brought by Priestley from England. Here Dr. Priestley and Cooper conducted scientific investigations. And in that then out of the way place, Cooper afterward was the first American to produce the recently discovered metal, Potassium, by the "fire-method," as published by him in 1811. *

Cooper soon became an American citizen. He was naturalized before Judge Rush, at Sunbury, Pa., November, 1795, when he stated under oath, that he had been in the United States two years, and in the state of Pennsylvania one year. At the November sessions of the same year, he was admitted to the Bar of Northumberland County. Besides practicing law, he edited for a short time the Northumberland Register, which in his hands became a very influential organ. He was a violent Democrat in politics, as parties went then. His "Political Arithmetic" published in it, and afterward in pamphlet form, was not only highly commended by Jegerson, but its data were freely used by him, as "those of an able writer and competent judge of the subject," in discussing the establishment of a national bank.[†] It was however, principally an attempt to show that a navy to protect the carrying trade was an unnecessary expense. The

* "The decomposition of potash and the production of potassium by heat". Portfolio, 1811, Vol. V, p. 145.

† *Jefferson's Memoirs and Correspondence*, edited by Thomas Jefferson Randolph. London, 1829. Vol. IV, p. 21F.

exports of the country, he said, being articles of first necessity, as grain, flour, beef, pork, fish, lumber, tobacco, rice, indigo, if we did not send them away in our own vessels, they would be fetched by others. They do not depend on forced markets. But the plated candle-sticks and buckles of Birmingham, velvets and muslins of Manchester, may require to be known before they come into demand. Wants of purchasers must be excited by novelty, and so forth. "But," he asks, "what fashion is there in a bushel of wheat or in a cask of flour?" He signed these articles: "*A Back-Country Farmer.*"

But as a man of varied learning and activity, he was also far in advance in his knowledge of minerals and geology. He carried about with him constantly his hammer and reagents, for breaking rocks and testing them; and passed with some persons unacquainted with him, as a man of somewhat impaired intellect. This calls to mind the effort to capture Professor Spencer F. Baird, whilst connected with the college here, as an escaped lunatic, whilst similarly engaged hammering rocks in an open field.

But Cooper soon figured in a wider field. "The Aurora," a newspaper of Philadelphia, founded by Bache, had become a prominent political organ. Duane married the widow of Bache, and acquired great influence through the paper. He managed to get himself into contempt with the United States Senate. He had presumed to state, in very abusive terms of course, that a bill prescribing the mode of deciding disputed elections of President and Vice-President, was got up in secret caucus of Federal senators, who controlled all the proceedings of that body, with the design to deprive Pennsylvania of her vote. * A Committee on Privileges, of the Senate, reported, and the Senate adopted the report, that the article contained assertions and pretended information respecting the Senate and their proceedings, "false, defamatory, scanda-

* *Aurora*, Philadelphia, Feb. 11, 1800.

lous and malicious, tending to defame the Senate, and to bring them into contempt and disrepute, and to excite against them the hatred of the good people of the United States, and that the said publication was a high breach of the privileges of the Senate." Duane was summoned for contempt. He appeared and asked to have counsel. There were no precedents. He was restricted in defence to matters of fact, or in excuse of the offence. His counsel, Dallas and Cooper, insisted in arguing the constitutionality of the proceedings, and upon refusal declined to appear in the case; or as Cooper characteristically put it, he would not appear with "*their gag*" in his mouth." * After ineffectual moves on the part of the Senate to enforce its authority, the matter finally blew over.

But it was not long before Cooper himself got into trouble. Already obnoxious to the party in power, on account of his political activity, and by reason of his part in the Duane case, and perhaps even more so by his manner, he made an attack on President Adams, in reply to an attack on himself by a correspondent, in the Reading Weekly Advertiser; and he was tried, April 1800, under the Sedition Law, as it was popularly termed; was convicted; fined four hundred dollars; and imprisoned for six months. This was one of the few cases, at most half a dozen, tried under that law. One of the counts in the indictment, seriously dwelt upon in the prosecution, and considered by the court, was that he had written and published, "that at that time, he, Mr. Adams, had just entered into office; he was hardly in the infancy of political mistake; even those who doubted his capacity thought well of his intentions." He plead his own cause. The notorious Judge Chase presided. Cooper's opinion of him may be of some interest. He says he was the tool of the administration, and became known as the American Jeffreys. "He was the first man on the bench in point of talent, and most proper to be chosen for the qualification of impudence, but totally devoid of honor, hon-

* *Aurora*, Philadelphia, March 27, 1800.

estly, or regard of character,—had great law knowledge, great talents, insolence, boldness, and total want of principle.”

Cooper served his sentence and paid his fine. It is often stated, on the highest authority, that the fine was returned to him with interest, by act of Congress, not long before his death. But the facts are, that the petition for the restitution of the fine, as unconstitutional, was presented to the U. S. Senate in 1825, shortly after the son, John Quincy Adams, had become president; that it dragged along through successive Congresses, and that final favorable action was not taken by Congress until after his death; and that the amount returned was paid to his heirs.

But the Democratic party had come into power in Pennsylvania, by the election of McKean as Governor, in 1799. Cooper had been an active advocate of his election; and his trial under the Sedition Law, with his own report * of it, and comments upon it, was an effective campaign document, as it was doubtless intended to be, in the presidential election of 1800.

In recognition of his services and his suffering in the cause, he was appointed by the governor, April 22, 1801, one of the Commissioners to carry into effect the Compromising Law of 1799, for the settlement of the troubles originating in the so-called Connecticut Intrusion, which had led to the armed collisions known as the “Yankee and Pennamite wars.” It was no sinecure position. Legal questions of the greatest delicacy were involved. Although the great suit under the direction of the Confederation, in 1782, lasting forty days, in which James Wilson, the Signer, had ably supported the claim of Pennsylvania, had been decided unanimously in her favor; that

* *An Account of the Trial of Thomas Cooper, of Northumberland: on a charge of libel against the President of the United States; taken in short hand, with a preface, Notes, and Appendix*, by Thomas Cooper, Philadelphia: Printed by John Bioren, No. 83, Chestnut Street, for the Author. April, 1800.

so-called Decree of Trenton covered only the question of jurisdiction over that vast and now populous territory covered with towns and cities and abounding in industries. But the decision was taken advantage of under color of proprietary rights by speculators and land-jobbers to discredit the titles of settlers to the homes they had made in good faith under Connecticut titles; and through political influences, and legislative lobbyists the State was long placed in a very unfavorable light. Even plans for the formation of a new state out of that region were seriously agitated, with influential backing. There is, indeed, no more pathetic chapter in the history of the State, than that which details the varying phases of the contest in the beautiful Wyoming Valley, with the forcible ejection of whole communities from their homes, often conducted with barbarous cruelty.

It was to the final settlement of this long contention, covering two generations, with its sequelae of bitterness and distrust, that Thomas Cooper was called. Others, and able men, had attempted it, and given it up. He succeeded. According to the historian of that region. "He unravelled with unexceeded patience and perspicuity the maze of this most intricate subject." *

But here it seems he found it necessary to reverse himself on the question of libel. Some one, under the nom de plume of "Yankee Farmer," had ventured to express himself in what Cooper considered 'an improper way, in regard to the Connecticut claims; and he proceeded promptly against him. It is of interest to quote from our own local paper of that day. The Carlisle Eagle, of Nov. 4, 1801, under caption, "Liberty of the Press," reads as follows: "From the Luzerne Federalist." "A warrant for the author of the 'Yankee Farmer' (published in the Federalist of the 10th ins't) was made out directed to the sheriff of the county on Monday last, on the application of Thomas Cooper, Esq. While the remarks on the Connecticut claims might be con-

* Miner's *History of Wyoming*. p. 455.

strued into contempt of Court, the editor thinks that there can be no impropriety in giving Mr. Coopers' own sentiments relative to the 'Liberty of the Press,' as published in a Philadelphia paper of March 28, 1801,—they follow, 'When the freedom of the Press is actually attacked, under whatever intention of curbing its licentiousness, the melancholy period can not be far distant when the citizen will be converted into a *subject*.' "

Having practically settled the questions arising out of the Connecticut Intrusion, he was commissioned, July 1803, Deputy Att'y General for Northumberland county; and was appointed, Aug. 1, 1804, President Judge of the Fourth Judicial District of Pennsylvania, then composed of the counties of Franklin, Mifflin, Huntingdon, and Bedford, upon the resignation of Judge Riddle from that office. *

The following decision, of some general interest was given whilst on the bench at Chambersburg, Pa. A man was indicted for the larceny of a bank-note on the Bank of Baltimore, of the value of Five Dollars. Cooper decided that the "stealing of a 'bank-note,' by that description, was not indictable at common law, and was not made indictable by any law," and he was therefore of the opinion that the prisoner must be acquitted. This decision led to the passage of a law making larceny of a bank-note punishable in the same manner as the larceny of any goods or chattels.†

Under the complete change of the whole judiciary system of the State, in 1806, Judge Cooper was continued in office, by appointment, as judge of the Eighth Judicial District, composed of the counties of Northumberland, Lycoming, and Luzerne. The fact that he had been previously President Judge of the Fourth District, prior to 1806, sometimes overlooked, is not only import-

* Executive Minutes. (Manuscript)—Harrisburg, Pa.

† *The Judiciary of Franklin County, Pennsylvania.* p. 21. A paper read by W. Rush Gillan, President Judge of the 39th Judicial District of Pennsylvania, before the Kittochtinny Historical Society of Franklin County, Penn.

ant as explaining allusions to him by that title, and as found on the title pages of some of his publications; but it is particularly important in accounting for his opinion, given in the Dempsy Case, as a member of the High Court of Errors and Appeals of Pennsylvania, as that Court was abolished by the act of 1806, but continued, without power to take up new cases, until 1808.

By the appointment in 1806 he became the successor, in Northumberland county, of Judge Jacob Rush, a brother of Dr. Ben'j Rush. Mr. Cooper was ultra-democratic; but Judge Cooper attempted to introduce the formalities and rigid regulations of the English courts. He soon got into hot water. Judge Rush had been mild, perhaps it would be better said lax in his administration; disposed, as one biographer puts it, to overlook what he attributed to ignorance rather than to willful contumacy. But he had at times been compelled to leave the Bench, unable to proceed with the case before him. Cooper bent on better observance of order and more prompt performance of duty, did not look at it in that way. Advantage was taken of the feeling created by this decided change in judicial administration, by some politically opposed to the judge; and after several years, memorials were sent in from the several counties of the District to the House of Representatives of the State, charging official misconduct, and asking investigation. The memorials were referred to a committee of nine, on which was Gibson of Cumberland county, subsequently Chief Justice of the State. Thomas Duncan and Frederick Watts, well known lawyers of Carlisle represented Cooper as counsel.

It is frequently stated that Judge Cooper was impeached; but impeachment would have been too slow a process for the removal of an obnoxious judge in those days. The other method provided by the Constitution was not only more expeditious, but led more certainly to the desired, we might almost say pre-determined result. It was removal by the governor on legislative address.

As the motive of the trial was largely political, it is exceedingly interesting as exhibiting many of the characteristics of the time. Thirteen days were consumed in taking testimony. The Associates of Cooper on the Bench testified uniformly to his efficiency and impartiality.

The Committee, in the preamble to their report, stated that their conclusions were reached by "keeping in view the necessity of protecting those who faithfully discharge the trust confided to them in the exercise of just and lawful authority, and of defending the citizens from those approaches toward arbitrary power, which the official position of President Judge of a court of justice affords such facility in making." Of more than fifty charges preferred, they enumerated eight as proven to their satisfaction. Five of these were for fining citizens at different times for what he regarded as improper conduct in the court-room, such as wearing a hat, whispering, etc. ; one for fining a Supervisor of the Highways; one for purchase of a property by him, with other parties at a sheriff's sale. The committee found no violation of any positive statute in this, but considered it fraught with immediate and alarming danger to the pure and impartial administration of justice. The Committee found accordingly that, the official conduct of the Judge was arbitrary, unjust and precipitate, contrary to sound policy, and dangerous to the pure administration of Justice; that "he had in several instances arbitrarily, precipitately, and unjustly fined and imprisoned individuals for causes trivial and insufficient, without an opportunity of being heard, conduct tending to impair the vital principles of our government and bring into contempt our institutions, etc."

A resolution accompanied the Report calling for the appointment of a committee to draft an address to the governor for the removal of Judge Cooper from office. The Judge and his counsel appeared in the House; and on the following day the resolution was passed by a vote

of 73 to 20; and the Address to the Governor was reported and passed the same day. It stated in closing that "although charity forbids to declare that the acts aforesaid have been committed from motives or intentions willfully corrupt and criminal, yet such has been his official conduct as to destroy public confidence in his decisions, by which his usefulness is (if not totally) very much diminished, and afford sufficient cause for his removal."

An elaborate protest prepared by Gibson, and signed by four other members of the House, denounced the proceedings as unconstitutional. The Address was sent to the Senate for concurrence. Cooper sent a letter to that body, stating in his defence, that the action of the House was not on evidence before it, but before a committee; that many charges had been debated by the House that had been ruled out by the Committee, on which there was no evidence; and that the accusations were in the nature of impeachment, etc. No notice was taken of the letter by the Senate, which sent the Address, promptly, to the governor.

Governor Snyder, obedient to the request of the Legislature, removed Judge Cooper from office, and so informed that body, April second.

In writing of the trial, thirty years afterward, Chief Justice Gibson said, that influential men of his own party, to whom he had become obnoxious, so artfully fomented a complaint of arbitrary conduct before the legislature, that he was removed by legislative address.

The mental attitude of Judge Cooper during the progress of the trial before the legislature, as to the character and outcome of the trial, is shown in a letter to his friend, Judge Hamilton, of Carlisle. After stating the number of charges preferred, and the number of witnesses called, he says, "before a legal tribunal I would be safe, but men who are not lawyers are not strongly impressed with the nature of evidence, nor do they see through the legal necessity that may guide a judge's opinion, when the facts popularly appear against him."

After classifying the Committee into those "incorrigibly biased," those in "doubt," and those "inclined to report favorably," he was inclined to take a hopeful view, but wrote: "How the result will be I know not."

Afterward in the preface to his "Introductory Lecture on Chemistry," * before the trustees and students of Dickinson College, he expresses himself so frankly and fully, and we might almost say philosophically, that a few extracts may be of interest. He remarks that some explanation may seem necessary of the character in which he then appears. He stated in substance that the Legislature of Pennsylvania thought fit to disapprove of his conduct as a JUDGE. That none of the charges were of a nature to induce him to disapprove of his own conduct, or to have altered it in any manner, if he had returned to the bench. The reason assigned in the Address to the Governor for his removal, entitled him as he thought, to the thanks of *the Community*. That he had received repeatedly voluntary testimonials of approbation from the most respectable citizens of the District for his behaviour in the very cases that the Legislature had pointed out as instances of misconduct.

But this, he recognized, is a government in which all power centers with the people, and they may insist that their representatives not only consult popular opinions, but even pay attention to the piques, the prejudices, and the caprices of the populace. That he had taken care, for the eight years he was on the Bench, to show distinctly and unequivocally, that as a JUDGE he held popularity in light estimation, and the result might have been expected. He felt resentment at first at the manifest prejudication of his case, the party spirit destined to decide it, the contempt shown for all impartial forms of judicial proceedings, the barefaced violation of the Constitution. But, he acknowledged, he was wrong. That he ought to

* *The Introductory Lecture of Thomas Cooper, Esq., Professor of Chemistry at Carlisle College Pennsylvania. Published at the request of the trustees. With Notes and References. Carlisle: Printed by Archibald Loudon. 1812.*

have reflected from the outset, from his knowledge of the world, that all this would be. The Legislature knew that even the spirit of party might have shrunk from the solemnity of an oath. He insisted on a trial; they refused it. They outvoted him; and all is well.

Under these circumstances he cheerfully accepted the chair of Chemistry in the College of Carlisle as an honorable addition to proofs of undiminished confidence in his character, and of the good opinion of the portion of society most qualified to determine.

This removal has, indeed, no great significance, and carries no reflection with it upon him as a man, or as a judge. Those were the days of the so-called "breaking of the judges"; when, as Brackenridge says, "there was a fermentation of the public mind with regard to the administration of justice." Judges were the only officers with a life-tenure, owing nothing to the dear people, and were regarded as a constant menace to republican institutions. The office of judge was therefore peculiarly obnoxious. In his "Modern Chivalry," Brackenridge makes the blind lawyer to say: "I do not know whether you call a judge a hind or a panther, said the Captain, but that seems to be the game at present. Every one must have a whit at a judge. No festival can be celebrated with suitable patriotism without a dash at the judiciary." At another place: "yes, said the multitude he has the very physiognomy of a judge, hang him at once and be done with his judgeship." Judge Brackenridge himself, then resident in Carlisle, when three of his colleagues on the Supreme Bench of the state were impeached, felt that he had been over-looked, and formally petitioned the Legislature to include him; and they accommodated him on account of his impertinent reflection on that body. In commenting on it afterward he remarks: "every candidate that goes on the election ground must endeavor to render himself popular by talking of knocking down a judge. Every young member of the Assembly will make his first essay at putting on his

arms by the achievement of moving an impeachment . . . judge-hunting will become, to speak figuratively, a fashionable country sport, and the ambitious to hark in, will pursue it with as much avidity as men do the wild boar in the forests of Westphalia."

Just at the time of Judge Cooper's enforced retirement from the judicial position, it happened that the department of Natural Science in Dickinson College was in need of a professor. This seemed to his admiring friends the opportunity for the college to secure the services of one recognized as a gentleman of the highest scientific attainments. He was accordingly elected professor of Chemistry and Mineralogy in that institution. His election was not accomplished, however, without decided opposition, followed by a protest on the part of absent members of the Board of Trustees, alleging that the meeting was irregular, and that the election of Cooper would be highly injurious to the interests and reputation of the college, in consequence of the prejudices entertained against him by the public. These prejudices were, however, not of a political, but of a religious character. The college was decidedly under Presbyterian patronage and control and Cooper was represented as infidel, atheist, Deist, Unitarian or almost anything heterodox; the term 'agnostic' was not then in vogue, or it might too have been applied,—and all with some degree of truthfulness.

But even those who opposed him knew that they were bringing to the college a most accomplished scientific man, of established reputation as an investigator, and skilled in the applications of science. Two days after taking the oath as professor, Aug. 7, 1811, he delivered an "Introductory Lecture on Chemistry," before the Trustees and students, which was published by order of the Board, and, as far as I have been able to ascertain, was the first lecture of the kind delivered in America that was published. It is remarkable for its exhaustiveness, and the

wide range of precise information which it includes. The lecture itself fills 100 pages octavo, and the accompanying notes 136 pages more. The preface, from which his statement in regard to his trial has been quoted, outlined fully the purpose and scope of the lecture. His reputation as a practical chemist attracted students to the college for the study of applied science, among them the sons of the Count DuPont de Nemours, the distinguished French writer on politico-economical and educational subjects; whose opinions were eagerly sought by Jefferson in planning the University of Virginia. He is sometimes alluded to as "de Nemours," and at others as "DuPont," and is at present represented by the DuPonts of Delaware.

A laboratory was built in connection with what is now called West College, but then the only college building. There were about eighty students under his instruction. A fee of ten dollars was charged for attendance on his lectures.

One of the most permanent results of his connection with the college was the acquisition of the Priestley apparatus, now in its collection, comprising a large compound burning-lens—the larger lens 16 inches in diameter, the smaller 7 inches in diameter, with a separation of 16 inches,—an air-gun, a reflecting telescope, a Dollond achromatic telescope, one of the earliest achromatic refracting telescopes made. These are all in working condition, and as pieces of historic interest are not surpassed. There was also an orrery of Priestley's included in the collection, a very popular kind of apparatus in that day; but it was not in perfect condition when obtained, and has since entirely disappeared. *

*An old subscription paper, probably of 1811, has recently turned up, the amounts payable to the "Treasurer of Dickinson College for the exclusive purpose of supporting the Professor of Chemistry (Dr. Thomas Cooper) for a course of lectures to be delivered during the present summer session of the College". It is autographically signed by a dozen of the leading professional men and citizens of the town for amounts ranging from \$50 to \$20.

But Professor Cooper was at the same time abundant in literary labors. He revived the "*Emporium of Arts and Science*," * a bi-monthly of 150 pages, previously edited by Dr. J. Redman Coxe, of Philadelphia. It was one of the very earliest scientific periodicals published in America, and in his hands assumed a high character for original research, vigorous criticism, editorial notices, and profuse illustration by first-class engravings. It is safe to say that no scientific journal in America to-day surpasses it in any of the particulars. Among many minor editorial notices he called attention to the recent production of a molasses out of starch, "sufficiently similar to the common article, and sweet enough to be used with coffee;" and made some practical suggestions as to its utilization. A table was also given, contributed by a student in his laboratory, of colors imparted to burning cotton dipped in spirit of wine in some of the neutral salts, twenty four in number.

The Journal ceased in 1814; the delay of the final volume being explained by the "printers serving their country as volunteers." He also published "*Accum's Chemistry*" in two volumes, with a copious Appendix of his own.

He was also absolutely the first to introduce the study of the Roman Law, by an English translation of the "*Institutes of Justinian*," arranged side by side with the Latin text, and with notes of his own, almost equal to the body of the work. The first edition by him, as Professor of Chemistry at Carlisle College, Pennsylvania, was published in Philadelphia in 1812.† A presen-

* *The Emporium of Arts and Sciences. New Series.*—Vol. I, conducted by Thomas Cooper, Esq'r., Professor of Chemistry, Natural Philosophy, and Mineralogy in Dickinson College Carlisle Pennsylvania.

Published by Kimber and Richardson, 1813.

Vol. II, 1814; Vol. III, 1815. With finely engraved Title Pages.

† *The Institutes of Justinian with notes by Thomas Cooper, Esq., Professor of Chemistry at Carlisle College Pennsylvania.*

Philadelphia: Printed for P. Byrne. 1812. pp. 714.

"CONTENTS. Preface, V; Dr. Harris' Brief History of the Roman Law, IX; Justinian's Institutes with the Translation, 1-391; The 118th Novel with Dr. Harris' Translation, 393-400; Notes and Refer-

tation copy of this edition (which is very rare), by the author to Judge Hamilton, is in the Law Library of our county. A second edition was published in New York, in 1841. The publication of this work led Jefferson to propose to him the preparation of a history of the Common Law, and the study of historical jurisprudence.

But Professor Cooper did not simply deliver lectures and write books while he lived in Carlisle. He lived here, and enjoyed life here after the fashion of that day. According to some reminiscences given me some years ago by the oldest citizens at that time, who had not only known Professor Cooper, but, as he said, was with him a great deal, and who seemed to enjoy recalling the, I might almost say, hilarious days, said "He was a remarkable man in his social relations and remarkably interesting." He mentioned as his intimate associates David Watts, Judge Hamilton, Thomas Duncan, and others of that distinguished group of lawyers. Their place of meeting was usually at Foster's, where Cooper boarded. This was the leading hotel of Carlisle, with the largest ball-room in the town, and was known as a Federal hotel. The building situated on North Hanover street, more recently known as the Egolf boarding house, was the finest stone building in the town, and the contract (1769) for the Old Stone Church on the Square called for ranged work equal to the front of this house.* Sometimes they met at "Caruther's," another public house, a stone building on the north-west corner of the Center Square and Main street, where the Farmers Trust Company now is. Cooper always had brandy and water at the table, a custom which, my informant said, was abandoned here when Cooper left; on which point, however, his memory may

ences to the Institutes, 401-655; Appendix First, The laws of the Twelve Tables, 656-664; Appendix Second, Methods of Citation used in reference to the various parts of the Corpus Juris Civilis, and Abbreviations, 665-667; Appendix Third, List of Authors on the Civil Law, 667-670; Addenda et Corrigenda, 671-672,-b; Index to the Books, Titles, and Sections of the Institutes, 673-693; Index to the Notes and References, 697-714."

* *Presbyterian Churches, Carlisle, Pa.*—Rev. J. A. Murray, D. D., p. 50.

not be perfectly reliable. But the occurrences that seemed to be recalled with greatest pleasure were so-called "beef-steak parties," in the open air, principally at Meeting House Springs. For these Cooper had invented a stove, to which my informant attributed considerable merit, though he did not say it had been patented. He said that he practiced medicine in the college among the students with the best Madeira, and was taken for a regular physician. He dwelt particularly upon the fact that the de Nemours, who were among his students, were among the best families in France.

But the good times only lasted until Professor Cooper married Miss Elizabeth Hemming, a lady of English birth, residing in Carlisle. His wife married in England, had died at Northumberland in 1800. A son and daughter were married during his residence there; but my old friend spoke of an unmarried daughter, who was with him here as "a very agreeable young lady," and recalled with evident pleasure, a journey by stage-coach with her and Miss Hamilton, a daughter of Judge Hamilton, to Lancaster; which was continued next day to Philadelphia.

The date of his marriage in Carlisle, is fixed very precisely by the following notice in the Carlisle Herald, Friday, October 16, 1812: "Married, On Monday last by Rev. J. Campbell, Thomas Cooper, Esq., Professor of Chymistry in Dickinson College, to Miss Elizabeth Hemming of this place." The Rev. J. Campbell was Episcopal rector in Carlisle.

Two children by this marriage were born in Carlisle:—Francis Hemming Cooper, and Thomas Priestley Cooper. A third, Ellen Connelly Cooper, was born in Philadelphia, January 15, 1820. The daughters were noted for their beauty and accomplishments. All these children married and have descendents living in Georgia, Alabama, and elsewhere in the South. Their pride in their grandfather is shared by the whole community, or rather section, with whose history he became so closely and in-

fluentially identified, and where he passed his later years.

But his residence at Carlisle was only preliminary to still greater and more potent, some might say pernicious activity elsewhere. As his election as professor had been opposed on account of his religious views, so his resignation from the college, in 1815, was due to the same cause. The mildest accusation brought against him, perhaps, was that he was a Unitarian, to which his intimate friendship with Dr. Priestley doubtless gave color. It was enough, however, to exasperate and alienate these upon whom the college depended largely for support.*

He removed to Philadelphia, where he was elected professor of Chemistry and Mineralogy in the University of Pennsylvania, in 1818. He was an active member at the same time of the American Philosophical Society of that city, as shown by papers read before it. He also published an extensive work on Medical Jurisprudence.†

But as early as 1814 Jefferson had opened a correspondence with him in regard to his contemplated University of Virginia, asking suggestions and advice, covering all features of the University. Some of his replies were so full, and considered so valuable, that they were returned to him for publication with Jefferson's comment: "It will give our young men some idea of what constitutes an

* For fuller account of Doctor Cooper's connection with Dickinson College, v. *History of Dickinson College*,—Himes, pp. 97 - 102.

† Tracts on Medical Jurisprudence, including:—Farr's Elements of Medical jurisprudence.—Dease's Remarks on Medical Jurisprudence—Male's Epitome of Juridical or Forensic Medicine, and Haslam's Treatise on Insanity,—with a Preface, notes and a Digest of the Law relating to Insanity and Nuisance.—By Thomas Cooper, Esq., M. D., Professor of Chemistry and Mineralogy in the University of Pennsylvania, and heretofore President Judge of the Fourth Judiciary District of Pennsylvania.—To which is added an Appendix containing, *Erskine's speech* for James Hadfield, indicted for Shooting at the King.—*An Abstract* Of a Report of the Trial of Abraham Kessler, indicted for poisoning his wife with white arsenic and laudanum; and a *Memoir* on the Chromat of Potash, as a Test for detecting Arsenic, Copper and Corrosive Sublimate:—By Thomas Cooper, Esq. *Read before the Am. Ph. Society*, Sept. 18, 1818.—Philadelphia: Published by James Webster, No. 24, South Eighth Street, corner of Lodge street. Thomas Town, Printer. 1819. 8 Vo.—Including Preface and Contents. pp. 465. Copious notes by T. C.

educated man." No one probably had greater influence in shaping the character of the new institution. It was but natural, therefore, that he should be thought of in connection with its faculty when it was ready to enter on its work. Jefferson had very high ideals in regard to professors to conduct it. Men of the highest eminence at home or abroad, were to be secured; and by the election of Cooper and his acceptance he was greatly encouraged. He was at first elected a professor in Central College, in 1817, and at the first meeting of the Visitors of the University was confirmed as "University Professor of Chemistry, Mineralogy, Natural Philosophy, and also, Law," in 1819.

He was at the same time in demand in New York, where an offer was made, through governor Clinton, of \$2500 a year, together with all the tuition fees of the position. In Philadelphia he was being urged for a position said to be worth \$7000 a year; and it was well understood that he was desired greatly by William and Mary college. But he was not elected without decided opposition. It required the full exertion of Jefferson's personal influence to accomplish it. Whilst those opposed to him conceded, as unquestioned, his great talents and acquirements, and that he was admittedly the first chemist in the country, they urged that there was a very prevalent impression that either in point of manners, habits, or character he was defective; and that he certainly was rather unpopular in the enlightened part of society and was obnoxious to public prejudices, and that his election would interfere with appropriations for the University by the legislature. The charge of intemperance was even made by some; but it was shown by Jefferson to be altogether without foundation; and he urged as a sufficient answer to all the charges, that he was so greatly desired by other institutions, especially by William and Mary college.

But the opposition, after his election, developed rapidly to such an extent, that, very reluctantly, Jefferson

allowed him to resign, and wrote: "I do sincerely lament that untoward circumstances have brought on us the irreparable loss of this professor whom I have looked to as the corner stone of our edifice." He was at once proposed for a position in the college of South Carolina; and was elected to the chair of Chemistry; and in the following year, upon the death of the president, he was called to the head of the institution. As has been said, he "was caressed, almost idolized for his genius and learning," and brought to the position "the prestige of a mighty name, and was permitted to wield almost absolute power."

The problems of administration in American colleges of that day were generally troublesome, if not always serious. In his admirable history of South Carolina College, Laborde often narrates the minutest details, from the very beginning of the college, of the pranks of students, often not very respectful to the authorities of the institution. These he attributes, in great degree, in Cooper's time to his fixed mental habits, and lays some stress on the fact that his opinions of young men were formed by his experience elsewhere, and did not recognize the peculiar tone of the young men with whom he had to deal, attributable to the peculiar institution of that section. Leaving out of account the effect of the long list of *mala prohibita* of college statutes generally, that often tempt to disorder, the case was complicated by Cooper's restless activity along many lines, and his independence of utterance on all subjects. He soon excited bitter animosity of influential citizens upon political and religious subjects. The students took advantage of the situation, as students will, to manifest, in their own way, accord with their dissentient elders. Many rebellions resulted from boarding-house grievances; which Cooper called, "disputes about eating;" and said that the college was in yearly jeopardy of being destroyed by them. But his conceded ability as a teacher, and his high character as a man kept him at the head of the institution.

As president of the college, entrusted so largely with the control of its activities, he had the one almost ideal qualification of thorough familiarity with many branches of learning, and great breadth of sympathy with all. Classical studies shared equally with the scientific studies in the college the impulse of his activity. But when a study did not commend itself to his judgment, or perhaps to his prejudices, he was very prompt and frank in the expression of an adverse opinion. Thus when asked to teach metaphysics, he professed to be qualified to teach it, as having "devoted more time to that unsatisfactory study than most men; so much so as to be fully persuaded that it was not worth the time to be bestowed on it." The key-note of all his plans and recommendations as president seems to have been: "We teach our youth in vain unless we enable them to keep pace with the improvements of the day."

In an address in 1824, he recommended the appointment of a professor of Political Economy, as "the culpable inattention in our country to a science of such extensive application, and the manifest ignorance and neglect of its first principles among our Statesmen and Legislatures seemed imperiously to call for some measure which should force into notice a branch of knowledge on which human happiness so much depended." The Trustees of the college, accordingly, requested him to deliver a series of lectures on the subject to the Senior Class, and relieved him of other work for the purpose. He was already a writer of acknowledged ability on that subject. In Vol. II of *The Emporium*, 1815, he republished a dissertation on Political Economy, by Bollman, in full; as usual with copious notes of his own. Jefferson wrote of it, that he would regret the place occupied by "Bollman's medley on Political Economy, were it not for Cooper's notes, one sentence of which threw more light on the subject than all the pages of Bollman."

His lectures on the subject before the college were in his most attractive and characteristic style. They

comprise 280 pages,* octavo and were pronounced by McCulloch, the best of the American works on Political Economy he knew of. In the Preface he takes pains to call attention to the fact, that they were not written for adepts in the study, but for young men without any previous knowledge of its objects or uses, and that he therefore did not scruple at repetitions that might seem objectionable to others; that by and by the young men who thank him for repetitions now, will lay aside his book to study more abstruse and nicer questions, treated by other authors, whom he named.

The Introductory Chapter on "The Rise and Progress of Political Economy" is of special general interest, embodying, as it does, the then recent advances in England; and enumerating a long list of maxims adopted as true, and acted on as beneficial, some even then, though involving dangerous fallacies. After stating that the truths laid down by Adam Smith had been acknowledged and acted on in Great Britain, "the legislators of the American Congress at the same moment were debating and denying the plainest conclusions of political science, which every man in Europe pretending to good education would blush to doubt."

In the chapter on "Governmental Encouragements" of manufactures, he exhibits a decided change of view from that published in the Prospectus of the "Emporium of Arts and Science" in 1813, in which after a very elaborate argument, and enumerating eight reasons, he concludes: "I think it would be expedient so far to aid the introduction of manufactures in this country, by protecting-duties as to afford a reasonable prospect of safety to prudent investment of capital and industrious pursuits of business." Now he contends that "difficulties

* *Lectures on the Elements of Political Economy.* By THOMAS COOPER, M. D., President of the South Carolina College, and Professor of Chemistry and Political Economy. Columbia: Printed by Doyle B. Sweeny, at the Telescope Press, 1826. With Preface and Index, 286 pages. 2nd Edition with Additions. Morris & Wilson. 1829, Columbia, S. C.—With portrait by Durand.

thrown in the way of foreign importations are results of efforts of manufacturers to tax the home consumer for their own benefit," and characterizes "the whole operation from the beginning to the end of it as a successful fraud on the community." He makes no exception, whatever, for "infant manufacturers," but argues earnestly against their protection; and can see no reason why he should be compelled to work for his "posterity of twenty-five years hence" instead of his immediate children. The change may be ascribed to difference in time and conditions, to which some may be disposed to add difference of *latitude*.

He gave no encouragement to the teaching of Oratory. That he had little respect for or appreciation of the graces of oratory is frequently shown in his writings. Thus in discussing some question, he could not resist remarking very incidentally. "Mr. Fox and Mr. Pitt were mere declaimers. . . . Indeed men habituated to talking are never inclined to severe study." He asserted that the political wisdom of England is in the reports of committees rather than in all the brilliant speeches of their best orators. In a lecture on Oratory he said the whole history of Oratory shows it to be little else than the art of cheating the understanding of a gaping populace, and that all modern oratory is to be held in the same estimation. "He who studies to be eloquent will never study to be wise."

But it was as a teacher that he was pre-eminent in any branch of learning. His success as a lecturer was not simply due to his command of the subject, but as well to the happy faculty of bringing everything to bear upon the subject under discussion. In a scientific lecture his first point was to secure the attention of the hearer, and when the nature of the subject demanded it, he did not hesitate to resort to extraordinary expedients for the purpose. "No one," it is said, "knew better how to weave in with a lecture on Magnesia an anecdote of Burke, or a description of a supper with the Brissotians,

or a glass of wine with Robespierre, and then without parade or affection, in the most direct and effective language, present the great truths of science with child-like simplicity."

He was an earnest advocate of a free college as well as free schools. He thought that education ought to be the cheapest of all commodities to all classes, and thought it beneath the dignity of the State to charge for admission to the privileges of its college.

But at this point the old source of trouble, the ever present handicap to his highest usefulness, came to the front. The exasperated religious sentiment of the State not only opposed free tuition in a State college, but aroused a feeling in favor of denominational colleges that led to the founding of several; and perhaps the most permanent effect of his connection with the college was the distrust created of State institutions, in their religious influences; and traditions of Cooper's teachings still have their influence on the attendance on the University of South Carolina. The cause of offence was perhaps made most conspicuous in teaching Geology. There was no American text-book. Professor Silliman, of Yale, had an edition of an English text-book published, with an addition of his own; in which he upheld the extreme orthodox view of the Mosaic account of Creation and the Flood. Cooper was almost obliged to use the book, but as a corrective he delivered a series of lectures to the Seniors on the Pentateuch, which of course did not harmonize with any views but his own. The very title—"The Fabrication of the Pentateuch proved by the Anachronisms in it,"—was enough at that time to create a sensation. Its publication, * osten-

* *On the Connection between Geology and the Pentateuch: in a letter to Professor Silliman, from Thomas Cooper, M. D., to which is added*

DEFENCE of DR. COOPER, before the Trustees of South Carolina College. Columbia: Printed at the Times & Gazette Office. Jan. 1833. pp. 64. Appendix and Notes.

Boston: Abner Knoeland—Portrait.

London: J. Watson, St. Pauls Alley, 1845.

sibly as a personal communication to Professor Sillman, gave wider circulation and greater emphasis to his obnoxious views. He opens with, "Preface to Professor Sillman of Yale College, Connecticut.

Dear Sir:—The addition of your syllabus to Bake-well's Geology, has given rise to this essay. I did not much mind the orthodox costume which Townsend, Kirwan, Kidd, Buckland, Ure, Mantell, etc., in England, and, under the Bourbons, Cuvier were obliged to wear. I got on very well also, notwithstanding my friend Dr. Hayden's reverence for the Mosaic deluge; but when you came out in full theological garb, an orthodox Wernerian, I was compelled to obviate the difficulties which you had offered to the consideration of my class, and take up the gauntlet which you had thrown down on my table. My theories and my geological reputation were in jeopardy with my young men, and I found it absolutely necessary to stand upon my defence. The lecture on that occasion has brought on me much trouble; and as it is greatly misunderstood and equally misrepresented, I have found myself compelled to state my argument in detail. . . . I know the force of prejudice, and the difficulty of changing after one's mind is made up. But you will agree with me that the question has become one of such magnitude that it *must be settled*.

Is there any such era as the geological occurrence of a general deluge? Is all diluvium to be referred to that era? If there be no other proof in its favor but the Pentateuch, it fails. I know of no other.

However you and I may differ on this subject, I feel sincere pleasure in bearing testimony to your valuable qualifications as a lecturer on chemistry and mineralogy, and to the great obligation you have laid the scientific world under by your excellent journal. . . ."

(Signed) Thomas Cooper, M. D.

In his opening paragraph, he states, that a few years ago, when there were no public lectures on geology in the United States except those at South Carolina College, and

Dr. Silliman's, each had recommended Bakewells' Geology as a text-book to their classes. * * Shortly after Silliman published an American edition, with a full syllabus of his own lectures, founded on the Mosaic account of the formation of the earth and the Deluge, as being delivered under the authority of Divine inspiration. He was compelled to put into the hands of his students, who could not procure the English edition, Sillimans' geological doctrines, as different from what he was accustomed to deliver as two opposite opinions well could be. He regretted greatly that Dr. Silliman should so far have committed his reputation as a man of science as to publish that syllabus; containing positions which no well informed geologist of Europe or of this country would now sustain and which no well informed theologian of the present day would venture to support. He proceeded to show that the Pentateuch was not written by Moses, and was of no divine authority, using many of the arguments of today and some that have been abandoned, and much that would be readily conceded by the most orthodox of today. He displays great familiarity with the arguments of the higher critics of his day, and critical ability in fields of controversy long since abandoned. A few extracts will show the old-time charter of the controversy. He quotes from Silliman's Syllabus;—"There is decisive evidence that no farther back than a few thousand years an universal deluge (Noah's Flood) swept the surface of the globe, and produced certain alterations in the physiognomy. This deluge of Noah was an exterminating and punitive infliction; sudden in its occurrence, short in its duration, and violent in its effects. . . . There may have been repeated physical events of this kind more or less extensive, although there has been only one general vindictive one, and only one general deluge since the creation of man."

To this Cooper replies: "It is well for Professor Silliman that his useful services to science have placed his reputation on a more stable foundation than his absolute

unconditional surrender of his common sense to clerical orthodoxy." "Professor Silliman says this deluge was a *vindictive, punitive infliction*. I am sorry he says so. Can he seriously believe that God Almighty is vindictive? Can he think it possible that the Deity should inflict punishment from any other motive than the kind intention of improving and reforming the habits and disposition of the offender? It is true the vindictive character and disposition ascribed to the Deity by John Calvin and his followers will admit of such a supposition, but that a man of learning and science should advance such an opinion is most deplorable." He then asks: "What had the sheep and cows and oxen to do with all this? Why was the revenge of the destroyer exercised on them? Were not the fish as guilty as these poor animals? He adds: "We must not, however, forget" (says the professor) "that the fish are not mentioned in the history of the Deluge. The obvious answer to this is, that being tenants of the water they might well be left to take care of themselves" !!! Cooper continues that the more he considers these blasphemies against a good and gracious being the more satisfied he was that this dreadful account of *vindictive, punitive infliction* of exterminating cruelty is a disgrace to the book that contains it, and the intellect that can believe it; and he thanked God that he held the whole story in utter detestation and abhorrence. He explained that he confined himself mainly to the Pentateuch as it related to geology, as he did not want to go beyond the occasion that compelled the remarks, or engage his respectable opponent in a discussion which he had not provoked.

A great outcry was raised throughout the state, to which the trustees paid no heed. But after several years the legislature of the State expressed the opinion, that it was expedient that the Board should investigate the conduct of Dr. Cooper; which it proceeded at once to do.

The charges presented to the Board, were that he had

unnecessarily advanced opinions respecting religion offensive to the parents of Students committed to his care and to large classes of citizens, and injurious to the interests of the college; and that he had at lectures, and on other occasions interfered unnecessarily with the religious opinions of the students, and inculcated upon them doctrines contrary to those in which he knew they had been educated. The proceedings took place in the Hall of the House of Representatives. On motion of Cooper the proceedings were open to the public. After many postponements the trial came on. Passages from his publications—Political Economy—Letter to a Member of Congress—Broussias on Insanity, and letters from students and others were presented in evidence. The latter were not under oath; but those in behalf of Cooper, as well as those presented by the Trustees were required to be taken before a Judge, and sealed, and read at the trial.

The nature of the charges and the animus of the trial may best be inferred from the character of the defence by Cooper, in which he consumed four hours. There was much in it that was irrelevant, but which appealed strongly in his favor to the political prejudices and state pride of his audience and suggests his place in S. Ca. politics.

He said, the scene was new in Republican America, it was a new page in the history of South Carolina. It was like a court of ecclesiastical inquisition, sitting (under legislative authority) "to inquire into all false doctrines, heresies, and schisms of which the president of the College, might have been *vehemently suspected*," (the usual expression of the courts of inquisition); this inquisition sitting in the middle of the 19th century in South Carolina, a state at this moment tremblingly alive to the usurpations and infractions of our National compact by Congress. The Trustees are called on by his accusers to make a similar usurpation. The Constitution of South Carolina, by Locke, 150 years ago, and made the law of the colony forever, declared that no one should be molested on account of his religious tenets. Many English

and Huguenots who revolted at religious persecution were attracted by the liberal constitution of South Carolina. In 1690 a Quaker was made governor. He hoped no descendant of a Huguenot would disgrace his ancestors by joining in the present persecution. He was forced to defend himself before a court of ecclesiastical inquisition for opinions which the constitution of the U. S. and of the State of South Carolina had guaranteed the right to hold and avow.

Accusations are not proofs that the opinions were offensive to the parents of students and large classes of people, and injurious to the college. When the presses teemed with attacks against him in 1831 the number of students increased. The testimony of the students was a continued panegyric on his impartiality, his faithful discharge of duty, and total abstinence from all interference with the religious opinions of the young men under his care.

The passages in his Political Economy related not to religion, but to the ministers and dispensers of religion; not to doctrines but to preachers; and the question was not a theological one but a statistical one, connected with the subject of Political Economy. His opinions as to a *salaried clergy* and *public prayer* were held by Wm. Penn and the whole body of Quakers.

Whilst it is true that he spoke with great want of respect and intense bitterness of the clergy or priesthood, it is proper to say, that in many cases, almost as a rule, he had in mind the *salaried clergy* of England. Whilst treating this subject in his Political Economy—(p. 250, where he terms them “that cunning, ambitious, and avaritious body of men”), in speaking of the clergy of this country as paid by voluntary contributions, he remarks that “their duties are well executed and their moral conduct for the most part irreproachable.”

He gave an account of the attacks made on him from the time he came to South Carolina, without foundation or reply, to the Legislature, and considered and dis-

missed by it; and asked if it was intended to harrass him annually with charges already adjudicated. The attacks, he said, were attempts, on the part of the Calvinistic clergy and their adherents, to monopolize all the seminaries of education in the U. S. and advance the political predominance of that class of Sectarian Clergy. It was an attempt to monopolize the home-market of ecclesiastical dominion over, and the supply of teachers to schools and colleges, which the manufacturing monopolists had succeeded in establishing. It is notorious that the opinions held by him were held and avowed by him when elected. (He was elected by a vote of 10 to 9). His defence of Materialism was published in 1789. His opinions were not novelties. They were held by many most respectable citizens of the U. S.; by all the fathers of the Christian church for centuries; by some most eminent divines of the English church; by Law, Bishop of Carlisle; by Watson, Bishop of Landaff; by Jefferson; by Rush. That the *Sabbath is not* a day of religious observation under the Christian dispensation is well known to be the opinion of every divine of eminence in England and is so held by Dr. Paley, whose works are text-books in the college.

As to the Pentateuch, he said, the discussion was rendered unavoidable by Professor Silliman; and no man who has duly attended to the Scriptures, and historical arguments can possibly believe that the Pentateuch, *as we now possess it*, was the writing of Moses; and he declared that he would scruple to give credence to the oath of any man who would, after full examination, deliberately say that it was so. All these obnoxious views were found in the writings of Dr. Channing, and of the Poet and Republican, John Milton. He read the opinions of Milton, denying the Creation out of nothing; the immortality and separate existence of the soul; the propriety of a separate order of men like the Clergy; the propriety of pecuniary pay given the Clergy; the obligation of public prayer, and of the modern Sabbath; and his insistency on

the *right* of free discussion. He referred to the very strong argument against the Calvinistic principles, called Orthodox, of Dr. Channing, one of the most eloquent, able, and learned divines of the country; and asked whether it was a crime to hold opinions with Penn, Milton, Rush, Priestley, and Channing. His opinions, he said, might not be true, but were forced upon him by evidence to which he had been subjected. Error of opinion is no crime.

To the charge that his opinions were offensive to a large class of the community, he replied that it was an accusation made against all reformers; as against Aristides; the opinions of Socrates were offensive to the populace and clergy of that day; Jesus Christ was crucified at the instigation of the clergy on the charge of blasphemy; the Apostle Paul was accused of having turned the world upside down; Servetus was burned; Gallileo was immured in prison, and his disciple condemned to death; Locke was driven into exile, not because his opinions were untrue, but because they were unpopular. They were all heretical and heterodox; thinking with the wise, they rejected the fashionable system of prudent falsehood, and would stoop to profess with the vulgar. In the Papist part of Christendom Protestantism is unpopular and a crime,—in the Protestant part, Roman Catholics are equally obnoxious.

“When I wrote “Consolidation,” I became so unpopular that two public proposals were made to remove me from the presidency; when in my speech at the anti-tariff meeting in June, 1827, I said that if the system so popular in the North of making the South a tributary was persisted in, we should by and by be driven to *calculate the value of the Union* to our section of the country, you all know the torrent of abuse thrown upon me for that prophetic expression, from one end of the United States to the other. Is nullification yet a popular measure? . . . But will South Carolina be deterred from what is right through dread of its being offensive or unpopular with

the ignorant and interested? No; her march is onward. . . . If the college had a president of known talents, of extensive acquirements, who possessed the difficult art of communicating knowledge to others, established literary reputation, conciliatory manners, unexceptionable morals, long tried course of unimpeachable conduct, should these qualifications be rejected because some of his speculative opinions were unpopular to a portion, not a large portion, of his fellow citizens? If he has a right to claim popularity for useful and substantial qualifications will you reject him on account of "*the color of his mule or the cut of his cravat?*" He had always said to the students, as every witness testified: "follow while at college the religion of your parents." The opinions objected to as used by him in his lectures were intimately connected with the subject treated, not extraneous to his duty, therefore not misconduct.

The result of the trial was exoneration by the Board. But the real question in the public mind was not to be obscured by pleas for toleration of religious belief, or appeals to political prejudices; and the effect of his defence, which was somewhat in the nature of a plea of guilty with leave to justify, was to intensify rather than allay feeling against him. Laborde, who may be taken as the representative of the extreme orthodox school, but always shows a disposition to treat Cooper fairly, states, rather incidentally, exasperating conditions that no formal trial could explain away. He says of his ministrations in the college pulpit: "He read from the Bible whose authority he openly denied, and prayed to a God, in whom he did not believe, with less of reverence than he would discuss the theory of phlogiston;" and at another place that, "he said their religion was to scare fools and little children, their God an idol, their religion a superstition."

Perhaps Dr. Marion Sims, who was a student in the college at the time, may be regarded as representative of

the student body. In his autobiography, * he speaks of Cooper as a pronounced infidel, and as "having exerted a very bad influence on the interests of the college," and as "having lived before his day;" that "in the days of Darwin, Tyndall and Huxley he would have been a greater infidel than any, or all three of them put together." He expresses amazement, even at that late day, that "a country so full of Presbyterianism and bigotry at that time should have tolerated him, when he went beyond the routine of his duties to lecture to the Senior Class, about six weeks before graduation, on the authenticity of the Pentateuch."

As a result the college declined. The number of students fell off to twenty. The outcry continued, and after a year he resigned the presidency, but retained his professorship. But that did not answer, and, in 1834, he withdrew from the University.

That the diminution in numbers was due to Cooper's so-called infidel views may be inferred from the fact of a decided increase under his successor, and an added chair of Evidences of Christianity and Sacred Literature. Upon his retirement he was appointed to revise the statute laws of the State, upon which he was engaged for five years, to the time of his death.

But as has already been seen in the account of his trial his restless activity in educational matters overflowed into the fields of practical politics. He was here, as might be expected, a radical of the radicals, and as usual unpopular and abused. He became indeed, a leading spirit in sectional politics, influential beyond the limits of the restless little state in which he resided. He was the acknowledged academic advocate of the peculiar policies of the South, particularly in regard to the tariff and nullification. An eminent South Carolinian, in an address at Charleston said:—

"I beg to refer to the profound argument of Thomas

* *Story of my Life*, by J. Marion Simms, M. D., LL.D., 1864. pp. 82.

Cooper, not of Mr. Calhoun; as preserved in the first volume of his Statutes at large of South Carolina, in support of the peculiar views in regard to the Constitution of the United States. As jurist, scholar, scientist, author, judge, and politician, Dr. Cooper was one of the most remarkable men who ever lived and died on the soil of South Carolina. He brought his astute and powerful mind to the study of the Constitution of the United States, not only its words and phrases, but its limitations on the powers of the government created by it. . . . He was a nullifier, and had he lived he would have been in the van of secession.

His great speech on the Tariff, as it was called, in 1827, called forth the ablest champions of the opposite school in addresses and printed replies. It was in this address the expression occurred, alluded to in one of Webster's replies to Hayne, to which Hayne replied, in his speech, that the charge of disunion brought against the South by Mr. Webster's reference to the expression of Dr. Cooper's, "that it was time to calculate the value of the Union," was not a controversy of his seeking.

This position of most advanced leader of Southern feeling accorded to Cooper is emphasized further by the place given him by Webster, in his memorable Reply to Hayne. In it Webster speaks of a "party that has arisen in the South in the lapse of six years." "Anti-consolidation" was the flag under which they fought. They were named "Radicals." He then refers to a speech in the Senate by McDuffie of South Carolina, and quotes from it at length, and says, "I think he quite consolidated the arguments of his opponents the Radicals, if to crush be to consolidate." He remarks that McDuffie was speaking of a pamphlet recently published entitled "Consolidation," * and quotes McDuffie as saying, "The author in question is not content with denouncing as Federalists Gen. Jackson, Mr. Adams, Mr. Calhoun, and the

* "Consolidation, *An account of Parties in the United States, from the Convention of 1787 to the Present Period.*" ("By Thomas Cooper" in writing) Columbia, S. Ca. Printed by Black & Sweeny. 1824. pp. 47, 8 vo.

majority of the South Carolina delegates in Congress;" and as then asking, "Who then is this author who assumes the high prerogative of denouncing in the name of the Republican party, the Republican administration of the country, a denunciation including in its sweep Calhoun, Lowndes, Cleves?" The pregnant question asked by Cooper in that pamphlet was: "Is South Carolina to become a Federal state? Do you mean to join the ranks of that party? If you do, so be it. The friends of States Rights will be content to remain in the minority. If not, the politics of Mr. Adams, Mr. Calhoun, and General Jackson are not the politics of this state. 'Consolidation' is the motto of their flag." Cooper himself in 1825, in private letters, expresses distrust of Hayne and McDuffie in the Senate, and also of certain members of the House as of the Calhoun and Adams politics. His attitude toward them is further shown by allusions to them in a pamphlet published in 1832, entitled "Memoirs of a Nullifier", * ascribed to him. The title gives no suggestion as to its character. It is an extravagant, humorous, satirical characterization of the "universal Yankee nation." In the course of the book he finds McDuffie, Hayne and others in hell for having proved false to their state.

It might seem at this point that a brief bibliography of his most important publications might aid in a further estimate of the man. But the titles would be many; and a mere title with him gives little indication of the range of the contents. Whilst his treatment of a subject, as a rule is close, clear and logical, as well as vigorous, and always original and entertaining, with a tendency to the epigrammatic in style, he continually bubbles over into characteristic notes and appendices, which often

* *Memoirs of a Nullifier*, written by himself. By a native of the South. Columbia, S. C. Printed and published at the Telescope office. 1832. Dedicated to His Excellency James Hamilton, Jr., Gov. of S. Ca. by "The Author"

This was credited, in writing, in the copy, read by the writer, to Cooper, and the interval evidences of authorship are unmistakable.

in the volume exceed the treatise itself, abounding in pertinent information much of which may not even be suggested by the title. This has already been alluded to in speaking of the "Lecture on Chemistry," and of the "Institutes of Justinian."

It may assist more in the fuller comprehension of the man to allow him to express himself on some subjects of general and present interest by extracts from some of his most characteristic publications. There is one title that seems so pertinent to this place and audience that some pains have been taken to obtain access to a copy. It is a pamphlet of eight pages; a few condensed extracts from which will exhibit well some facts of his character. It is entitled: "A letter to a Student of Law—July, 1815," and purports to be a reply to an inquiry for a course of reading on politics for a law student. It is put down as a Carlisle imprint, but the name of the person to whom it is addressed is not given, and the writer asks that it be considered private, and only for his perusal.

In a letter to Madison, however, from Carlisle, Aug. 8, 1815, Cooper says of it, "One of my students desired me to make out for him a course of reading *on Politics* (sic). I have printed a few only to give away; for my political sentiments are very unlike those of any party. But I must remain such as I am until further lights."

He prefaces the book by saying: "My ideas will be tinged by my own opinions. I will be as impartial as I can, but impartiality implies merely a naked regard to truth, not an absence of opinion." He recommends first a plan in reading; as "desultory reading is very pleasant, but will furnish only desultory information."

He divides what has been written into six periods:

1. Ancient theories and practice of politics, to the time of the Byzantine Empire;
2. Fall of the Empire to the revolution under Cromwell;
3. From the revolution under Cromwell to that of 1688;

4. To the American Revolution ;
5. To the French Revolution ;
6. To the present day .

Among the ancients, he names Aristotle first. "It is not easy," he says, "to find in any Modern work so full and able an investigation of political constitutions, or forms of government and elementary ideas in political economy as in 'Aristotle's Politics.' " "You will be surprised to find how much that very extraordinary man has occupied of modern grounds, and how little some books of modern repute have added. Indeed I know of no other of the ancients comparatively worth perusing. Some remarks scattered through Cicero's works are hardly worth hunting up. The Saxon laws, so far as extant, are known to me in three books only, scarce in this country, viz:—the Laws of King Ina; Wilkins' *Leges Anglo-Saxonicae*, and the Laws of Edward the Confessor. Milton's, "*Defensio Populi Anglicani*" against "*Defensio Regia*," is one of the best works of the time, but Milton is very vulgar and abusive." Passing on to our time, he says that the idea is, that Power emanates from the people for the benefit of the People; that Europe is about going to war for the purpose of ascertaining whether the sovereignty be legitimate because the people confer it or because it is transmitted, in contempt of them, in hereditary succession. He dilates largely upon American politics, but says it taxes his own recollection, because the documents are scattered in laws, state papers, and pamphlets preserved in the libraries of some few collectors. He finds the theory of religious toleration well laid down in most of the state constitutions; but that "we have a strong mixture of theoretical toleration and practical bigotry; and if religious tests are not adopted among us, it is owing to mutual jealousy of sects rather than general conviction of inexpedience or injustice." He was opposed to all days of thanksgiving and fasting.

On the question of Suffrage he says: "Before I came here in 1793, my opinion wavered on this theory of this

question: Universal Suffrage. Twenty-two years of experience and attentive observation have led me strongly to doubt both the right and expediency of universal suffrage." He would limit by property, and assigns seven reasons. In this connection he states that Adams took strong part in favor of hereditary titles, and on one occasion Mr. McClay of Harrisburg, so happily proposed, (being upward of six feet high) that as titles ought to be marks of personal qualifications, he ought to be called "His Highness," and Mr. Adams "His Rotundity." Not being able to restrain a fling at Mr. Adams, he adds "But Mr. Adams, having been first a shoemaker, then a school-master was desirous of merging his humble avocations of early life under a title at the close of it. But the meanness of his origin and his first pursuits deeply tinged his manners, his conduct, and his character." But in the corrigenda, at the end of the pamphlet, he says: "I am not certain that Mr. Adams was a shoemaker, nor is it a discredit to him if he was, but his father was, etc."

He does not, with any affection of modesty, overlook his own contribution to the subject, and thus alludes to them: "In 1787, Cooper published his 'Propositions on the Foundation of Civil Government,' the first decidedly Republican tract since the time of Milton, Hampton and Sidney, except Priestley's Essay on Government. These with Mackintosh's "*Vindiciae Gallicae*," in answer to Mr. Burke, and Cooper's Reply to Burke's invective against Mr. Watt and himself in the House of Commons are the chief tracts in favor of republican principles of that day." He remarks, "There is much to object to in Burke's political and literary character, but he was after all a wise man, and the first writer in the language as to force and ornament and elegance of diction." Brackenridge's *Law Tracts*, he regarded as the best disquisition on the right of instructing members of the Legislature. He deplored America as a nation of office-hunters. "Politics," he said, "is the business of man, woman, and child. Sin against party is the sin against the Holy Ghost."

On one of the questions agitating the civilized world today he seems to have held very pronounced and advanced views. In the paper entitled, "Propositions Regarding the Foundations of Civil Government," before referred to, read before the Literary and Philosophical Society of Manchester, March 7, 1787, in touching on the rights of women, he writes: "The people can have no right to exercise power, authority or dominion over a fellow creature, in their collective capacity . . . except parental dominion till manhood, infancy, idiocy, lunacy, coverture, persons being naturally or by compact *sui incompetotes*. With respect, however, to unmarried women at the age of discretion, the common practice of nations appears to be inequitable, and perhaps indeed to the married." A foot note, added evidently at a later date, emphasized this opinion as follows, "I am perfectly unable to suggest any argument in support of the political superiority, so generally arrogated by the male sex, which will not equally apply to any system of despotism of man over man. . . . Women are educated for inferiority, and kept in fear. . . . I have conversed with Theroigne de Mericourt"—(this was the brilliant, quick-witted, handsome eloquent Amazon of the Revolution—the fury of the Gironde)"—with Madame Condorcet, Madame Lavoisier, in Paris. What these women are, other women might become. I have often felt my own inferiority, and often lamented the present iniquitous and most absurd notions on the subject of the disparity of the sexes. . . . Let the defenders of male despotism answer (if they can) the "*Rights of Women*," by Miss Wolstonecroft."

His views, too, at that early date in regard to child labor were just as pronounced. In discussing America as a manufacturing country, in his "Information respecting America"—1794—he says: "I am grieved to see that so sensible a man as Mr. Hamilton can urge in his report on American manufactures, their furnishing employment to *children*, as an argument for their being established in America."

It is difficult to fix very definitely the traits of such a versatile character, and it may be allowable now with our fuller acquaintance with him to retouch some that may seem to have been pretty fully discussed.

As to his religious belief, or irreligious belief if you choose, which was always getting him into trouble, and was ever a handicap to his usefulness, enough has been given to locate him, especially as he had no esoteric beliefs. He was at times not only frank but unnecessarily, even offensively outspoken. As we have seen, Simms, speaking for the student body at the time, regarded him as a pronounced infidel. Laborde who knew him intimately said that he had "drunk deep of the fountains of infidelity." His utterances before the Board, on his trial, tended in the same direction. Perhaps, as we have learned to know him, the rather old-fashioned word, more in vogue then,—Free thinker in its broadest sense, might fit him. He, himself, probably, came nearest the truth in writing to Jefferson, at the time of his resignation from the University of Virginia, on account of religious clamor: "Whatever my religious creed may be, and perhaps I do not know it exactly myself," (in which he belongs to a whole school of Agnostics) "it is a pleasure to reflect that my conduct has not brought, and is not likely to bring, discredit to my friends. Wherever I have been it has been my good fortune to meet with and make ardent and affectionate friends." He was an enthusiastic admirer of Paine, with whom he was intimate. He engaged him to sit to Romney for a portrait; which Cooper is supposed to have brought with him to America, but which has, in spite of the most diligent search in recent years, eluded discovery. On the other hand, he seemed capable of recognizing true greatness and worth of character in those who differed from him, *toto coelo*, in theological views. An instance of this is shown in his appreciation of Rev. J. Wesley, in an article on the Slave Trade, * in 1787, in which he writes of "that active be-

* *Letters on the Slave Trade* by Thomas Cooper, Esq., Manchester, 1787.

nevolence that has perpetually marked his character" and of his thoughts on Slavery "as written with the author's usual conciseness, which for importance of fact, for cogency of argument, and for neatness of style, has not been exceeded by any writer on this subject."

He had a tender consideration, too, for the religious feelings of his servants around him that was not mere courtesy. His old servant or slave, Sancho used to tell that often, when the Doctor would have invited company for Tuesday evening, his master would say: "Sancho, this is your class-meeting night," and to Sancho's reply "Never mind; Master, I will stay and wait on them," the Doctor would reply, "No, Sancho, go to your class-meeting." That same Sancho related that he had prayed at the Doctor's bed-side in his last illness; and he also showed a Bible with the inscription: "Thomas Cooper to his faithful servant, Sancho."

But Cooper was undoubtedly a pure materialist in his philosophy. He differed on this point, with expressed regret, from his friend Dr. Priestley, for whose opinions generally he had the greatest deference. By a recent author * he is classed with the "no-soul psychologists;" and he impressed La Borde, as having no conception "of man as a higher nature, as a being with immortal powers, with aspirations reaching into a never-ending futurity. His philosophy was not co-extensive with the soul." So strong was this popular feeling produced by his freely expressed views on these subjects, that there was some opposition to giving him a last resting place in the grave yard. It was, however, accorded him in that of the Trinity Episcopal church. His old

* "American Philosophy: *The Early Schools*", by J. Woodbridge Riley, Ph. D., New York, 1907.

Review of the above in *Science*, March 20, 1908:—"We find Cooper at the University of Virginia, elaborating a 'psychology without a soul', propounding the hypothesis of the electrical character of the transmission of the nerve impulse, and anticipating positivism." The reviewer, whilst noticing, as "an odd anachronism", the confounding of Thomas Cooper (1759-1840), with the celebrated chartist of the same name (1805-1892), himself falls into the prevalent error of designating the former as the "son-in-law of Priestley".



THOMAS COOPER, M. D.

ORIGINAL BY WILLIAM HENRY BROWN

faithful white mule, Blanche, was put to the hearse. All went well until the church-yard gate was reached, when the mule balked; and a good old colored woman always said it was because of another Balaam's ass, that Blanche saw in the way, with flaming sword, to keep the infidel out.

His legal acquirements are sometimes overlooked or underrated. Thus an eminent historian remarks, that he "spent more time with acids than with law books;" and his removal from the judicial office, however brought about, would be accepted by many as an indication of unfitness. Even Judge Porter, in his "Essay on the Life, Character and Writings" of Chief Justice Gibson, after giving copious extracts from his masterly protest against the proposed action of the House, of which he was a member, on the removal of Cooper from the Bench, suggests, in regard to Gibson's statement in later years: that his "trial was the result of his becoming obnoxious to some influential men of his own party, who artfully fomented charges against him before the Legislature"; that this sentiment of Gibson's must be received with some grains of allowance on account of the partiality of the writer. Cooper had, however, before the time of removal acquired a national reputation, by his opinion in the *Dempsey Case*, already alluded to. Although that opinion had been ruled contrary to by the Court, out of deference to the opinion of the U. S. Supreme Court of a few months before, Pennsylvania adopted it by legislative enactment a few months later; and Judge Brackenridge took "the liberty of saying that if Lord Ellenborough's dicta, and Judge Cooper's opinion had appeared before the decision of the Supreme Court of the United States, it might have changed a vote in that case."

Jefferson after saying that a more luminous opinion on the subject will not be seen, continues: "it will produce a revolution in opinion on the question treated; not in the present day, because old lawyers like old physicians

and other old men never change opinions which have cost them the whole labors of their youth to form."

As a lawyer, according to a contemporary of the Northumberland County bar, Mr. Cooper's forte was "to seize two or three strong points and present them forcibly to the court and jury. He never wearied by long speeches; never used a word or illustration that was not to the purpose."

His facility as a writer was remarkable. As an instance of the ease and rapidity with which he dashed off, as it were, publications of the most important character, it is narrated, that whilst his noted reply to Burke was going through the press, and he would stop in to correct proof; and the printer would say, "We want more copy, sir," he would sit down, write two or three sheets, and hand it over without re-reading.

The rather incidental way in which allusion has been made to his medical studies whilst a University student, and to his practice of medicine among the students, whilst a professor here, may have given a very incorrect impression in regard to this phase of his character. When, or where he received the degree of 'M. D.', which appears on the title page of some of his publications, can not be precisely stated. Judge Gibson seems to think it was at the time he went to Philadelphia from Carlisle. However that may be, it was not a purely honorary distinction. Many of his writings show a profound knowledge of medical science of that day, and his standing as a medical practitioner does not rest upon conjecture, but upon ample testimony of the highest character. In 1815, after he had left Carlisle, for some reason, probably in view of his election to some position, testimonials were given as to his character in this respect. One who knew him in Northumberland states: "Cooper was consulted as a medical man by the physicians of Northumberland, Sunbury, and Carlisle, and on the circuit in the counties of Luzerne, Lycoming, Mifflin, Huntingdon, Bedford and Somerset, when he practiced with me as a law-

yer, or presided as a judge, and he was always esteemed as one of the profession, . . . attending medical cases among the highest and lowest ranks of society." "His opinions were much esteemed by medical men, and for twenty years his services as a physician were generously given without fee or reward."

Another testimony of highest character, and of local interest, is that of three physicians well known as the most prominent in our county at that time, namely James Armstrong, W. C. Chambers, and James Gustine. They endorsed him as "an able physician, well versed in both the theory and practice of medicine." Whilst professor in Carlisle, however, he took no fees; in fact it seems such was the understanding when he took the chair of chemistry there.

As a business man he does not appear to have been a decided success. His venture in bleaching at Manchester, Eng. did not turn out well. It is said that he lost two handsome fortunes of his wife, and a smaller one of his own in such ventures. In 1800, in reply to interrogatories of Judge Chase, before imposing the fine, he said that his property in America was moderate; that some resources he had in England, commercial failures there had recently cut off.

But there is another question upon which there may be a very natural curiosity, namely as to his attitude and utterances in regard to the peculiar institution that dominated at that time the political thought and feeling of the section of the country with which he was identified. He was a nullifier on the purely political grounds of states-rights and economical considerations; and I think it can be assumed that on the question of slavery he was at least considered a safe man, in the day when anyone suspected of being otherwise was summarily deported. But it is difficult to harmonize his complete acquiescence with such a system with positive utterances of an earlier day. Thus in his letters on the Slave Trade, published in several editions, in Manchester, 1787, he wrote: "if we

claim freedom for our birth-right, and glory that the very air of our country is too free for a slave; we are in honor bound to assist in exterminating the most diabolical exertion of political tyranny, which the annals of oppression can exhibit an instance of." The tract was written in his most vigorous and uncompromising style. It could not avoid considering the institution of slavery itself, emancipation, etc., as well as the slave-trade. It was published, too, at a time when there were many apologists for the slave trade, and even champions of it in high places. The last two pages of the pamphlet contain advertisements of recent publications on the subject, first, "Against the Slave Trade," second "For the Slave Trade." The latter list comprises half dozen titles, and a number of references, some of them to sermons.

In his "Information on America" (1793), in treating of the desirability of the several states as a home for English immigrants, he rules out, in turn the several states in which slavery exists, in which the "law and practice" tend to support this humiliating distinction between man and man", and pronounces it "an insuperable objection."

At a much later date, in his "Political Economy" published at Columbia, S. Ca., in 1826, in discussing, "Labour and Wages," he says: "Slave labour is undoubtedly the dearest kind of labour." He calculates the lowest cost of a negro, at twenty one years, taking into account attention, maintenance, clothing, life insurance, etc., and making due allowance for the work he may do to that age, at \$500; and estimates the work he can do then at two-thirds of that of a white day laborer at most; and besides considers that he may become lame; or sick; or that he may die or run away; and that he must be maintained in old age. He argues that such property ought therefore, to bring 10 per cent on the capital. He is very positive that nothing will justly slave labour in point of economy but nature of the soil and climate which incapacitates a white man from labor in the summer, as

on the rich lands of Carolina and Georgia extending 100 miles from the sea-board; which could not be cultivated without slave labour. He regards it as entirely unprofitable even in Maryland and Virginia.

But in his Tract on the Slave Trade, in considering this point, he had quoted approvingly Mr. Wesley's account of the decidedly beneficial effect, to himself and his whole family, as well as others, whilst in Georgia, of "as hard labour as any negro need be employed in."

The reader will have doubtless by this time formed his own opinion of the man, even from this imperfect sketch. He does certainly seem to present himself as a jumble of qualities, often incompatible, some good and many otherwise; often consistent only in his inconsistency; happiest apparently when miserable, which you may think he contrived to be the greatest part of his life. You may picture him, indeed, as a very Ishmaelite, his hand against everybody and everybody's hand against him. He probably came near describing a chronic condition, in writing, at one time, to a member of the U. S. Senate, that he lived "the life of a toad under a harrow." Intolerant himself of any restraint upon his opinions or tolerances, as has been aptly said, he rode rough shod over other men's opinions.

Although admired by many for great intellectual qualities, it is possible that he may be regarded, from all that has been given, as without social qualities of head or heart. Fortunately there are data that give a different point of view. Whatever difference there may have been in the estimate of him in other respects, there was practical unanimity by all who knew him in their tributes to him as a man, as honest, unselfish, sincere, and fearless in his advocacy of what he believed to be right, and as eminently social in his disposition. In social intercourse with his fellows he seemed, indeed, to lay aside all dogmatism and became, even as other men, decidedly amiable. The contemporary before alluded to, whilst

speaking of him as, "a man of powerful intellect, highly cultivated," adds, "he had a heart as capacious and warm as his mind was richly stored;" "his extensive knowledge wit and humor were sufficient to instruct and enliven any society." At a much later period, W. C. Preston, of South Carolina, in describing the hospitality of an eminent Southern statesman of the time, remarks: "At his elegant board naturally came the best and worthiest of the land. There was found that very remarkable man, Doctor Thomas Cooper, replete with all sorts of knowledge, a living encyclopedia, '*multum ille et terris jactatus et alto*,' good-tempered, joyous, of a kindly disposition."

During the visit of Lafayette to America in 1824, he was selected to welcome him, and dined with him. Lafayette is said to have expressed himself in the highest terms in regard to him and Priestley.

According to a grand-daughter, as received from her mother, "he illustrated the Emersonian idea of plain living and high thinking," and that "nothing could excel the simplicity of his manners and environments." This can hardly be taken to mean that he was not fond of a square meal with all its accompaniments. The memory of the old citizen of Carlisle, whose testimony has already been had on this point, seemed to linger more tenderly and persistently about the "beef-steak parties," and the meetings at Foster's, than about any other incidents that he could recall. The contemporary, whose recollections have already been drawn upon freely, who was his friend for fifty years, gives a little fuller insight into those limited social meetings of that day. A club of six gentlemen, of which Cooper was a member, when he resided in Philadelphia, after leaving Carlisle, met every Monday, alternately at each others houses, at 6 P. M.; had supper at 8 P. M.; and adjourned at 10 P. M.; and they met, supped, and separated very punctually. At first supper consisted of crackers and cheese; after sometime, of "roast potatoes and butter;" "next they had cold roast beef and trimmings;" the cold beef gave way in a short time to hot

beef, beef steak, or mutton chops; these in a few months gave way to lobsters, roast duck, terrapin, or whatever it was the pleasure of the member where we supped to set before us." "The members were generally cheerful, abounded in anecdote, and were not deficient in general information and good humor." "Judge Cooper," he adds, "was a chemist of no ordinary calibre; he was admirable in compounding sauces and gravies, and enjoyed them very much."

The apparently contradictory character of these accounts may be explained by the difference of dates and the different conditions under which they were made. That of the daughter accords with the statement of Jefferson, in a letter to J. C. Cabell, March 1, 1819; that during a visit to him Cooper stated at his table, that "the state of his health permitted him to eat nothing but vegetables" and that "he dared not drink ale or cider or a single glass of wine." A visitor at his home about a mile and a half from Columbia, pictures him as highly entertaining in the midst of a social assemblage, composed in great part of ladies.

He would have made an admirable member of "The Society for the Prevention of Cruelty to Animals." His family tells of remembered instances of almost painful sympathy with their sufferings. As an editor he turns aside in an article to express himself on this subject. He says: "We have a tolerably good poem on the life and death of a blood horse, 'The high mettled racer,' tracing his progress from being the favorite of the turf, through all the grades of hardships, till he is worn out with hunger, labor and blows, in the cart of the scavenger; I fear, a faithful account, not much to the credit of British Humanity." In a foot note to this he adds: "I republished about three years ago, Lork Erskine's admirable speech on cruelty to animals; it well deserves frequent perusal."

In his family relations he was a model of an affectionate father and husband. Among his accomplishments were drawing and painting, and some specimens

of his work, said to be technically very fine, are in possession of his grandchildren.

But this sketch would be very incomplete without a word in regard to his personal appearance. Any picture that you may have formed of him would hardly have anything in common with him. He was if possible more unique in this respect than in his character as we have seen it. Whatever influence he exerted, whatever magnetism he may have possessed can not be attributed in the slightest degree to his personal presence. His appearance, as far as descriptions go, or as a photograph would render it, was altogether against him. He could almost be called a caricature of a man. The daily newspaper could make use of his photograph without modification, or fear of prosecution. The noted physician, J. Marion Simms, who was a student of his at the University of South Carolina, in his autobiography, before alluded to, describes him when he was over seventy years old, as a "remarkable looking man. The students generally called him 'Old Coot'; and the name suited him exactly." "He was less than five feet high, and the head was the biggest part of the whole man. He was a perfect taper from the side of his head down to his feet; he looked like a wedge with a head on it." "A bust of him shows a head almost a parallelopiped, the squarest head one ever sees." It must be borne in mind, that this is a description of a bust, not of the man. The bust is altogether without artistic character, and was either intended as a caricature, or most likely is unfinished; as the head is nearly a cube, as described. "A silhoutte shows him with stooping shoulders, a great baggy coat, pantaloons, baggy at the top, and terminating in a broad ruffle at the feet."

Upon such a basis, in 1833, that period of high political excitement, when South Carolina was the focus of all attention, and Cooper, perhaps, the most prominent and ablest champion of its peculiar political doctrines, the following description of him was published. It seems al-

most as exaggerated and distorted as the pictorial cartoons of today.

“Judge Cooper.”

“This man who is one of the ringleaders of the nullification party in South Carolina, is an Englishman by birth, was formerly a resident of Pennsylvania, and engaged in the whiskey insurrection of that state. He is now president of Columbia College. A Columbia correspondent of one of the Boston papers has this discourteous description of him:—‘We may add from our own personal knowledge of the Judge, that he is about the most unseemly lump of flesh we ever wished to look upon; his head is as round and bald as a pumpkin, and his face about as expressive as a midsummer oyster: talent he has doubtless, but he must be an exception to the general rules of physiognomy. But he is just the oddest sight that ever was; an accurate description of him would be a burlesque on humanity; short legs, stooping humpback, slovenly dressed, and wearing an old white hat. He rides a small bobtail pacing horse, and when they are under weigh it seems that the devil was making off with his last load.’ The allusion to the Whiskey Insurrection is altogether wanting in historic accuracy, and was doubtless introduced for rhetorical effect.

But this was a caricature by one who had no appreciation of the man, and when he was at a very advanced age. The following will be recognized as the picture of the same one drawn with more friendly lines, by one who knew him well, and “remembered him as of a day or two ago.” “He used to ride a white pony, and his bald head, round and jolly-looking face, and twinkling eyes were known to everybody.” A contemporary of the Northumberland County bar, to whom we have already alluded, describes him as, at that time, “of a short round figure, stooping forward, of florid, high English countenance and complexion, and a man of most extraordinary endowments and distinguished genius.”

There are, however, two silhouettes of him which in

a great measure bear out the description first given of him. The one exhibits him as described by Simms, as with stooping shoulders, a great baggy coat, pantaloons baggy at the top, and terminating in a broad ruffle at the foot. This was by William Henry Brown. Another, probably by the same artist, represents him as seated in his rocking chair in his study, with an ink stand on a small table in front of him. These silhouettes were cut out of black paper, and pasted on to an elaborate lithographed background, as was the practice of the celebrated French silhouettist, Eduart, who visited this country in 1838. The silhouettes are both in the possession of Elizabeth Hemming Hanna, a grand-daughter.

A very fine steel engraving of him by A. B. Durand, from a drawing by C. Ingham, Oct. 22, 1829, aetat 79, is a strong picture, displaying marked character. It appears as a frontis piece in the third edition of his "Lectures on Political Economy."

A miniature by St. Memin has been said to be a portrait of Cooper as a young man. It exhibits a young man of decidedly prepossessing features, but can hardly be regarded as a portrait of this Thomas Cooper, as he was already thirty-five when he came to America, and St. Memin made no portraits in France.

There is however, an authentic oil portrait of Cooper, of an earlier date in the Library of the University of South Carolina.

Whatever may have been his physical infirmities, it is said, "his mental faculties remained so virgin, that at the age of eighty, he amused his leisure by translating Spanish ballads for the literary periodicals of the State."

He died at Columbia, S. Ca., May 12, 1839, and is buried in Trinity Church Yard. A simple marble monument, in general design of a truncated quadrangular pyramid, about eight feet high, bears the following inscription: "Erected by a portion of his fellow citizens to the Memory of Thomas Cooper, M. D., & LL. D., former

President of the South Carolina College. Born in England, died in Columbia, May 12, 1839. Aged 80 Years." Attention is particularly called to the year of his death, as given in the inscription, as it is frequently given, apparently on the best authority, as "1840."

According to his will dated, December 25, 1838, his estate consisted of a house in Columbia, two tracts in the Sand Hills, where he had formerly resided, household effects, horses and carriage, and four slaves; of the latter, old Sancho, and Lucy, his wife were bequeathed absolutely to his wife; the others, with all the rest of his estate, were left to his wife during her natural life, while she continued his widow; and it was directed that his "claim upon Congress may be pursued until recovered." This claim—the fine—was recognized by Act of Congress, and repaid, with interest to his heirs, ten years after his decease.

If this rather hurried presentation of this unique character may seem not only incomplete, but at times disconnected, the reader is reminded that it has been controlled by the purpose announced in the beginning, of presenting the man as a man in his acts, and as far as possible in his own words, assisted by contemporary accounts, thus bringing as many facets of his character as possible into view, and leaving to the reader the pleasure of forming his own picture and estimate of him.

It may by some be regarded as an appreciation; perhaps it has been written in a *nil nisi bonum* spirit; for whilst he was a remarkable man, open to just criticism at many points, his defects have been generally dwelt upon, and his many admirable qualities as a man have escaped attention.